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COMMITTEE REPORTS

HCR 30, relative to the small-issue industrial development bond program. Economic Development committee. Ought to Pass. Senator Shaheen for the committee.

SENATOR SHAHEEN: This is a resolution to urge congress to extend the Small-Issue Industrial Development Bond Program so that all the references in this are not to the state program, but to the federal. They are currently considering this, and this will merely point out that this is a program that has helped New Hampshire and we ought to extend it, especially now given our current economy.

Adopted.

Ordered to third reading.

HB 1118, an act relative to membership of the permanent committee for barrier-free design. Public Affairs committee. Ought to Pass. Senator Podles for the committee.

SENATOR PODLES: Mr. President, HB 1118 does exactly what the analysis reads. It increases the membership of the permanent committee on architectural Barrier-Free Design, from at least six members to at least eleven members, the majority of whom shall be persons with a disability. The committee urges ought to pass.

Adopted.

Ordered to third reading.

HB 1122, an act establishing a committee to study all areas of apple cider standards, licensing and labeling. Public Affairs committee. Ought to Pass. Senator Podles for the committee.

SENATOR PODLES: HB 1122 establishes an apple cider standards review committee. At the present time there are no production standards, no labeling requirements, no federal guidelines, and not even a definition of apple cider, so anything goes. The committee recommends ought to pass.

Adopted.

Ordered to third reading.

HB 1243, an act revising the Patients' Bill of Rights. Public Institutions, Health and Human Services committee. Ought to Pass. Senator Podles for the committee.

SENATOR PODLES: Mr. President, HB 1243 revises and clarifies the Patients' Bill of Rights that reflects federal law, which relates to the OBRA regulations. The bill basically extends those rights already enjoyed by the residents in any licensed nursing home that

accepts federal funds, which is medicaid or medicare. It extends it to hospitals or private nursing homes to supported residential care, county homes and even to facilities that do not accept medicaid. Short-term admissions and acute care hospitals for five days or less are exempt from this procedure. It is a consumers bill. It addresses every reasonable right of the patient. The committee urges ought to pass.

SENATOR NELSON: Senator Podles, I noticed on page one of the bill, number II, it talks about being fully informed of the patients right and responsibility. Does this contain anything in terms of informed consent concerning surgery or medical procedures?

SENATOR PODLES: It refers just to what is here. This has already been in effect, and all that we did was just simplify the language and accepted what was already there. We just extended the location.

SENATOR NELSON: Let me just ask you a question on number four on page two; when they came before the committee to change this bill or to add to it, I noticed on IV, it says that, "the patient shall be fully informed by a physician of his health care needs and medical condition, unless medically inadvisable", I was wondering if they gave an example of what would be medically inadvisable in the state of New Hampshire?

SENATOR PODLES: I don't recall, Senator.

SENATOR NELSON: Thank you.

Adopted.

Ordered to third reading.

Recess.

Out of recess.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate and requests a Committee of Conference.

HB 1256, an act requiring the department of transportation to study United States route 3.

SENATE ACCEDES TO HOUSE REQUEST FOR COMMITTEE OF CONFERENCE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate and requests a Committee of Conference.

HB 1256, an act requiring the department of transportation to study United States route 3.

Senator Oleson moved to accede.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Oleson, Cohen, Currier.

The Speaker on the part of the House, has appointed as members of said Committee of Conference:

Representatives: Chandler, Weeks, Wheeler, Frechette.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill and requests a Committee of Conference.

HB 1305, permitting the carrying and selling of antique gun canes.

SENATE ACCEDES TO HOUSE REQUEST FOR COMMITTEE OF CONFERENCE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill and requests a Committee of Conference.

HB 1305, permitting the carrying and selling of antique gun canes.

Senator Heath moved to accede.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Heath, W. King, Cohen.

The Speaker on the part of the House, has appointed as members of said Committee of Conference:

Representatives: Benton, Daly, Walsh, Chasse.

TAKEN OFF THE TABLE

Senator J. King moved that we have HB 726-FN-A an act relative to fees charged for vital records, taken off the table.

Adopted.

HB 726-FN-A, an act relative to fees charged for vital records. Public Institutions, Health and Human Services committee. Ought to Pass. Senator J. King for the committee.

SENATOR J. KING: This bill has several changes in a way to defeat the charge for vital records. First of all, it brings about a new one that they call the vanity plate, which if you want to have a birth certificate or a divorce certificate, or a death certificate made pretty, the state will provide you with that for \$25. The adoption of a foreign born child has increased from \$4 to \$25 because of the cost of digging out the information and so forth. Last year it cost \$10 for a birth certificate and other certificates, before that out of the \$10, \$6 went to the state and \$4 went to the county. They also charged \$10 for each certificate. If you got 10 certificates, it would cost you \$100. So this bill changes so that the first charge would be \$10 for that one certificate, each additional one, would be \$6. It also allows the funeral directors to go through the State Division of Public Health for death certificates. They found out that it was difficult in some of the towns because the clerk's office was not opened, so they allowed them to do that. Any corrections of a certificate that is made by the clerk, there is no cost, if it is made by the individual that is requesting it, then it is a cost of \$25. By the way, most of this money is used for the computer services that they have underway between the cities and the towns. Those towns not on it, I understand, can become part of it without any cost. We recommend ought to pass for HB 726.

Adopted.

Ordered to third reading.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and Senate Bills:

HB 783, relative to motor vehicle records and DWI convictions.

HB 1163, relative to a public employee's right to require that a non-public session under the right-to-know law be open to the public.

HB 1359, relative to the confidentiality of police personnel files in criminal cases.

HB 1440, relative to preparation of master jury lists by the department of safety from drivers' licenses lists.

HB 1480, requiring persons who default on court appearances for motor vehicle offenses to pay witness fees for law enforcement officers.

SB 307, authorizing disclosure of certain information contained in the records of the department of revenue administration to the office of reimbursements, division of mental health and developmental services.

SB 356, relative to quality assurance records in nursing homes and health maintenance organizations.

SB 361, relative to the impact fee laws.

SB 394, relative to the jurisdiction of the labor department over self-insured workers' compensation programs.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House Bill:

HB 1228, allowing a city, town or village district to grant waivers from the requirement of connection to the public sewer systems for properties with adequate alternative sewage disposal systems, and authorizing the town of Durham to borrow for the purpose of making improvements to wastewater treatment facilities.

ANNOUNCEMENTS

RESOLUTION

Senator Delahunty moved that the rules of the Senate be so far suspended as to allow all bills to be placed on third reading and final passage, all titles be the same as adopted, and that they be passed at the present time.

Adopted.

RESOLUTION

Senator Delahunty moved that the Senate be in recess until Tuesday, April 7, 1992 at 1:00 p.m. for the sole purpose of receiving House Messages and Enrolled Bill Reports.

Adopted.

LATE SESSION

Third Reading and Final Passage

HB 726-FN-A, an act relative to fees charged for vital records.

HB 1118, an act relative to membership of the permanent committee for barrier-free design.

HB 1122, an act establishing a committee to study all areas of apple cider standards, licensing and labeling.

HB 1243, an act revising the Patients' Bill of Rights.

HCR 30, relative to the small-issue industrial development bond program.

Senator Currier moved to recess.

Adopted.

Recess.

Out of Recess.

HOUSE CONCURS

The House of Representatives concurs with the Senate in the passage of the following entitled Bills and Resolution sent down from the Senate:

SB 323, establishing a committee to study the issue of physician self-referrals.

SB 326-FN, relative to the Lamprey solid waste district.

SB 331, relative to gender equity in athletics.

SB 359, relative to expending moneys by the OHRV bureau for trail maintenance expenses.

SB 367, authorizing the department of resources and economic development to sell the Nansen ski jump facility if no interest exists in the private sector to maintain and operate the facility.

SB 368, changing statutory references to automobile graveyards, motor vehicle junkyards and junk vehicles to include automotive recycling yards or vehicles.

SB 386-FN, relative to the publications, specialty items and fund raising revolving fund of the fish and game department and authorizing certain fund raising by the department.

SB 404-FN, relative to chiropractic practitioners and privileged communications.

SB 430-FN, relative to the establishment of regional offices for the vocational rehabilitation division.

SCR 11, encouraging the U.S. Congress and the President of the United States to consider the economic impact of federal laws and legislation on states.

HOUSE CONCURS WITH SENATE AMENDMENTS

The House of Representatives concurs with the Senate in its amendments to the following entitled Bills and Resolution sent down from the Senate:

HB 1209, establishing a committee to study the real estate valuation and revaluation process.

HB 1228-FN-LOCAL, allowing a city, town or village district to grant waivers from the requirement of connection to the public sewer systems for properties with adequate alternative sewage disposal systems, and authorizing the town of Durham to borrow for the purpose of making improvements to wastewater treatment facilities.

HB 1240, establishing a committee to study criteria and propose legislation concerning the secession of a portion of a municipality.

HB 1323-L, forming a study committee to develop a survey to be used by the department of education to collect and compile information regarding major school construction projects.

HB 1351, creating a committee to review the laws governing tax-exempt property and to study the concept of and criteria for payment in lieu of taxes by tax-exempt properties in response to HBI 2 of the 1991 session.

HCR 26, urging the New Hampshire legislature and the New Hampshire Congressional delegation to discourage certain Air National Guard testing of F-16 fighter aircraft in New Hampshire airspace.

HOUSE REFUSES TO CONCUR

The House of Representatives refuses to concur with the Senate in the passage of the following entitled Bills sent down from the Senate:

SB 357-FN, prohibiting licensure by any state agency or board where an outstanding court default or bench warrant has been issued and making license application fees non-refundable.

SB 390, establishing a revenue estimating conference which shall estimate anticipated state revenues.

SB 400-FN-A-L, requiring fees in addition to licensure fees for certain dogs which are not spayed or neutered and using the increase to fund a state animal population control program and continually appropriating the companion animal population control fund.

SB 407-FN, relative to the acceptance of credit cards for motor vehicle related offenses by clerks of court and bail commissioners.

SB 413-FN, allowing nonprofit organizations to use informational signs on certain highways.

SB 417-FN, requiring notification of associated costs of converting fuel heating systems and allowing recovery for costs of removal of leaking residential tanks from the oil discharge and disposal cleanup fund.

SB 420-FN, relative to interviewing children under the provisions of the Child Protection Act.

SB 440-FN, relative to water conservation strategy for community water suppliers.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled Senate Bill:

SB 421, relative to fireworks.

HB 503, relative to recovery of medical assistance payments.

HB 534, amending the habitual offender penalties to provide for special alternative incarceration.

HB 1152, authorizing the office of child support enforcement services, a dependent child, or his parent or guardian to receive directly from a health insurer a certificate of insurance covering any dependent child.

HB 1207, exempting the hospice houses from certificate of need review.

HB 1261, requiring the department of transportation to conduct a study relative to the construction of certain portions of U.S. Route 3.

HB 1265, regulating small motor mineral dredging and panning.

Recess.

Out of recess.

RESOLUTION

Senator Delahunty moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until Tuesday, April 7, 1992 at 1:00 p.m.

Adopted.

LATE SESSION

Senator Delahunty moved that the business of the day being completed, the Senate now adjourn until Tuesday, April 7, 1992 at 1:00 p.m.

Adopted.

Adjournment.

April 7, 1992

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dawn Berry, Senate Guest Chaplain.

Our God, we pray for the world you love, and for the particular piece in which we live, New Hampshire. If your purposes were truly served, there would be no need for legislation to compensate damages, set penalties for theft, or define assault against children. But, we live in the meantime, waiting for your full mending of creation. Where compassion is limited by privilege, neighbor love distorted by greed, and children at risk, guide these Senators in their tasks. May their decisions help to improve the quality of our life together in New Hampshire. Keep these Senators in your care, upholding them when they are weary, encouraging them when they are harried, and dancing with them in their joy. Amen

Senator Currier led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

HOUSE MESSAGE

The House has voted to sustain the Governor's veto on the following Bill:

HB 379-FN, relative to advertising devices within highway rights-of-way.

COMMITTEE REPORTS

HB 61-FN, an act repealing the prospective repeal of the victims' assistance fund and making technical corrections in the distribution of penalty assessment funds. Judiciary committee. Ought to Pass with Amendment. Senator Hollingworth for the committee.

5663L

Amendment to HB 61-FN

Amend the bill by replacing section 7 with the following:

7 Effective Date Changed for HB 534-FN. If HB 534-FN becomes law, amend section 2 of HB 534-FN to read as follows:

2 Effective Date. This act shall take effect [January 1, 1993] **60 days after its passage.**

8 Effective Date.

I. Sections 1 and 3 of this act shall take effect July 1, 1994, at 12:20 a.m.

II. Sections 2 and 4 of this act shall take effect July 1, 1998, at 12:01 a.m.

III. Sections 5 and 7 of this act shall take effect upon its passage.

IV. Section 6 of this act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill repeals the prospective repeal of the victims' assistance fund and makes certain technical corrections in the laws regarding distribution of penalty assessment funds and repeal dates.

The bill also amends the effective date of HB 534-FN.

SENATOR HOLLINGWORTH: The committee on Judiciary would like to move ought to pass on HB 61. This is a simple bill. It simply repeals the repeal of the Victims' Assistance Fund. The Appropriation's committee added an amendment that would distribute the penalty assessment to the Court Modernization Fund and the Victims' Assistance Fund. There has been a decline in the penalty assessments which results in a decline in the fund for the Victims' Assistance. This program is essential to our judicial system as was evident in the past year of the rape of the grandmother in Alton. This is a recognition for the need and for the standardized service of Victims' Assistance Program officers. It has been hoped and looked at in the Court Modernization Fund when the computers are all paid for that that money will then be applied to the Victims' Assistance.

Adopted.

Ordered to third reading.

Senator Nelson excused for the day.

HB 526-FN, an act relative to extended terms of imprisonment and transfers to the state prison. Judiciary committee. Ought to Pass with Amendment. Senator Colantuono for the committee.

5661L

Amendment to HB 526-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to transfers to the state prison.

Amend the bill by deleting sections 1 and 2 and renumbering sections 3-6 to read as 1-4, respectively.

AMENDED ANALYSIS

The bill makes some reference changes in the laws regarding transfer procedures.

SENATOR COLANTUONO: This bill originally did several things, it imposed extended terms of imprisonment for people convicted of a fourth offense in various crimes. It also changed sentencing proce-

dures for people who had been convicted of numerous misdemeanors who the county jails wanted to send up to the state prison, but the Judiciary committee felt that both those provisions were unnecessary, unwarranted or bad policy. In the amendment on page four, we have stricken both of those two paragraphs, the rest of the bill is going forward. The rest of the bill is a simple bill giving more flexibility to the jails to transfer prisoners who are in the county jails up to state prison if they are dangerous or if they need the further treatment at the state prison. So with the amendment on page four, we would request ought to pass with amendment.

SENATOR MCLANE: Senator Colantuono, what is the cost of keeping a person for a year in the state prison?

SENATOR COLANTUONO: I can't answer that.

SENATOR BLAISDELL: I believe, about \$18,000.

Committee amendment adopted.

Ordered to third reading.

HB 677-FN, an act establishing a 2-year pilot program in Rockingham county eliminating the trial de novo system in misdemeanor cases. Judiciary committee. Interim Study. Senator Colantuono for the committee.

SENATOR COLANTUONO: The purpose of the committee report of interim study on this bill is because the committee felt that we need to send to the court a question on the constitutionality of requiring this pilot program to go forward with any person arrested in Rockingham county, whether that violates their rights to equal protection, since they are the only people who have to go through this program. Also, the committee felt that it was important to get the vote in November on the CACR that we already passed to allow six person juries, because that is the only way that we thought that this bill would be feasible. So with that in mind, I believe, that there is going to be a motion made to table it so that a resolution can be introduced asking the court the question.

LAIID ON THE TABLE

Senator Podles moved to have HB 677-FN an act establishing a 2-year pilot program in Rockingham county eliminating the trial de novo system in misdemeanor cases laid on the table.

Adopted.

HB 677-FN is laid on the table.

RESOLUTION

Senator Podles offered the following resolution:

SR 4, requesting an opinion of the justices concerning the constitutionality of HB 677-FN.

SR 4**STATE OF NEW HAMPSHIRE**

In the year of Our Lord one thousand
nine hundred and ninety-two

A RESOLUTION

requesting an opinion of the justices concerning
the constitutionality of HB 677-FN.

Whereas, there is pending in the Senate, House Bill 677-FN, "An Act establishing a 2-year pilot program in Rockingham county eliminating the trial de novo system in misdemeanor cases," as amended by the House of Representatives; and

Whereas, HB 677-FN eliminates the trial de novo appeal to the superior court and provides for an appeal only to the supreme court for defendants in misdemeanor cases which have been tried by jury in the district courts in only one county in New Hampshire for a temporary 2-year period; and

Whereas, under HB 677-FN defendants whose cases are tried by juries in district courts outside of Rockingham county during the period of July 1, 1992, to July 1, 1994, will retain the option for a trial de novo appeal while defendants in Rockingham county will lose such option; now, therefore, be it

Resolved by the Senate:

That the Justices of the Supreme Court are respectfully requested to give their opinion on the following questions of law:

1. Does eliminating the option for a trial de novo appeal to superior court for certain defendants in Rockingham county for a temporary 2-year period, while preserving the option for the same class of defendants in the remaining counties of New Hampshire, deprive the defendants in district courts in Rockingham county whose cases are tried by jury during such 2-year period of equal protection of the laws under Part I, Articles 1 and 12 of the New Hampshire Constitution or of equal access to the courts under Part I, Article 14 of the New Hampshire Constitution?

2. Does temporarily eliminating the option for a trial de novo appeal to superior court for certain defendants in district courts in Rockingham county deprive these defendants of due process of law or equal protection of the laws under the Fourteenth Amendment to the United States Constitution?

That the senate clerk transmit copies of this resolution and HB 677-FN as amended by the House of Representatives to the Justices of the New Hampshire Supreme Court.

SENATOR PODLES: I would like to speak to SR 4 which requests an opinion of the justices concerning the constitutionality of HB 677. Mr. President, all that we are doing is requesting an opinion, a ruling on HB 677.

Adopted.

HB 693-FN, an act relative to disclosure of tax records related to investigations by the attorney general and relative to forfeiture of items seized in connection with controlled drug offenses. Judiciary committee. Ought to Pass with Amendment. Senator Colantuono for the committee.

5675L

Amendment to HB 693-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to forfeiture of items seized in connection
with controlled drug offenses.

Amend RSA 318-B:17-b, V as inserted by section 2 of the bill by replacing it with the following:

V. [Such] Final orders **for forfeiture of property under this section or under RSA 318-B:17-d** shall be implemented by the [attorney general] **department of justice** and shall provide for disposition of the items or property interests by the state in any manner not prohibited by law, including retention for official use by law enforcement or other public agencies or sale at public auction. The [attorney general] **department of justice** shall pay the reasonable expenses of the forfeiture proceeding, seizure, storage, maintenance of custody, advertising, court costs and notice of sale from any money forfeited and from the proceeds of any **sale or public auction of forfeited items**. All outstanding recorded liens on said items or property interests seized shall be paid in full upon conclusion of the court proceedings **from the proceeds of any sale or public auction of forfeited items**. The balance remaining shall be distributed by the [attorney general] **department of justice** as follows:

(a) Of the first [\$200,000] **\$500,000**:

(1) Forty-five percent shall be returned to the fiscal officer or officers of the [municipality or municipalities or county or counties where] **municipal, county, state, or federal government which**

provided the law enforcement agency or agencies responsible for **the** seizure [of the money and auctioned items are located]. Moneys returned to each fiscal officer shall be deposited in a special account and shall be used primarily for meeting expenses incurred by law enforcement agencies in connection with drug-related investigations. Except as provided in RSA 31:95-b, such funds shall be available for expenditure without further appropriation by the [governing] **legislative** body of the [municipality or] **municipal, county, state or federal government**, and shall not be transferred or expended for any other purpose. Moneys returned to a state law enforcement agency shall be deposited in a special nonlapsing account established within the office of the state treasurer and shall be in addition to all other state appropriations to such agency;

(2) Ten percent shall be deposited into a special nonlapsing account established within the office of the state treasurer for the office of alcohol and drug abuse prevention; and

(3) Forty-five percent shall be deposited in a revolving drug forfeiture fund, administered by the department of justice pursuant to RSA 318-B:17-c; and

(b) Of any balance remaining:

(1) Ten percent shall be deposited in the manner prescribed in subparagraph [IV] V(a)(2) of this section; and

(2) Ninety percent shall be deposited in the manner prescribed in subparagraph [IV] V(a)(3) of this section.

The total amount of payments made to the special account for the office of alcohol and drug abuse prevention pursuant to subparagraphs [IV] V(a)(2) and [IV] V(b)(1) of this section shall [at no time] **not** exceed \$400,000 in any fiscal year[. All sums in the special account for the office of alcohol and drug abuse prevention in excess of \$400,000] **and any excess over \$400,000 which would otherwise be paid to such special account under this section** shall be deposited in the general fund. The revolving drug forfeiture fund shall at no time exceed \$1,000,000. All sums in the revolving drug forfeiture fund in excess of \$1,000,000 shall be credited to the general fund.

Amend the bill by deleting section 1 and renumbering the original sections 2-4 to read as 1-3, respectively.

AMENDED ANALYSIS

The bill expands the types of drug-related materials, products, equipment and property interests which may be seized through the judicial or administrative drug forfeiture process. The bill allows the court to order property impounded, upon request of the attorney general, upon a showing of probable cause that the property is subject to judicial or administrative forfeiture. The bill also establishes

procedures to be followed by the seizing agency with regard to items and property interests seized from the time of seizure until final disposition of the case. Any moneys seized are to be forwarded to the attorney general to be held in an interest-bearing escrow account until final disposition of the case.

In judicial forfeiture cases, the bill allows a court to order forfeiture of any other property of the defendant if the drug-related property which would have been seized cannot be located or identified for certain reasons. The bill increases the time periods in which a petition must be filed and in which a hearing must be held in the superior court following seizure of items or property interests.

This bill was requested by the department of justice.

SENATOR COLANTUONO: This bill was a request of the Attorney General's Office, designed to update the law on drug forfeiture. It will make it a little bit easier, extend the number of items and description of items that can be forfeited for drug offenses. The first paragraph of the bill, however, allowed the Attorney General to get tax records, simply by submitting a letter to the DRA. The committee felt that that was going a little bit too far, and we weren't in favor of it. So the amendment on page four, strikes that paragraph. Also, in the House, House Appropriations added a provision that said that, "from a drug forfeiture fund, the indigent defense fund would be repaid for any defense for any drug defendants". This was added after the bill went through Judiciary by the House Appropriations and it wasn't really caught by members over there. When the bill went through, a lot of people didn't realize that it was in there. There was a lot of opposition to that part of the bill. The Attorney General came in and opposed it, law enforcement came in and opposed it. So we have a further amendment which is on page five, which has the effect of taking that out. We have also restructured the fund so that the cap of \$200,000 on any one forfeiture, has been raised to \$500,000 and the amount that can go to ODAP has been raised to \$400,000. But with those changes, we recommend that the bill be ought to pass as amended.

SENATOR COHEN: Senator Colantuono, I am just curious about this. The amended analysis says that, "the bill expands the types of materials which may be seized." Does this simply reallocate the materials once they are seized or does this actually increase or expand police powers in regard to the forfeiture of this in any way?

SENATOR COLANTUONO: All it does is broaden the language to make it a little clearer. On page two of the bill, you can see that the new language is all materials, including, but not limited to firearms, scales, packaging equipment, surveillance equipment, and grow lights." That is the change there.

SENATOR COHEN: I see. Thank you.

SENATOR HOLLINGWORTH: There is another forfeiture bill that will be coming out next Thursday, I think, that will be addressing some of the concerns that Senator Cohen is raising.

SENATOR J. KING: Senator Colantuono, does this in any way affect the distribution of the things that are collected, do the locals get involved or does it all go to the state?

SENATOR COLANTUONO: No. The current breakdown is: 45 percent goes to the locals and 55 percent goes to the state and 10 percent to ODAP. That percentage will remain the same, but because we are upping the cap from \$200,000 to \$500,000 the locals can possibly and should get more under this.

SENATOR J. KING: Thank you.

Committee amendment adopted.

Ordered to third reading.

HB 1108, an act authorizing valid living wills executed in other states to be recognized in New Hampshire. Judiciary committee. Ought to Pass. Senator Russman for the committee.

SENATOR RUSSMAN: This simply allows the saying that if a living will is made in another jurisdiction, it will be given full faith and credit in this state. It is consistent so that there will be some kind of assurance that if you are taken to Massachusetts, for example, from here, or somehow you were on the border and you were brought to the hospital in New Hampshire, that your wishes would be carried out, to make it a little more uniform.

SENATOR DISNARD: Senator Russman, on line six, "foreign", mean any other state or another country?

SENATOR RUSSMAN: It means any other state in the contents of the law here.

SENATOR MCLANE: Senator Russman, our living will has been amended to include the fact that it is possible to withdraw hydration, nutrition if a person is deemed terminally ill. What happens if someone comes from a state like Vermont, who doesn't have that section of the law and they wish the hydration, nutrition to be removed?

SENATOR RUSSMAN: They would have to, as a legal matter, they would have to redraw their living will really, to conform with here, in this state. Otherwise, they would simply take the one that they drew in the other state and apply it here as it was written in the other jurisdiction.

SENATOR MCLANE: Which would not include the hydration, nutrition or would it go back to the old system where the doctor or two doctors made that decision?

SENATOR RUSSMAN: It would depend upon the way that it was written, in all honesty. You would have to look at it on a case by case basis, depending upon what is said. If it had no provision for hydration, I think that it would be back to the other circumstance, because it failed to address that. That has happened, in some instances, obviously, the change and a lot of people still have older ones that haven't been updated so that you have to take it on the basis of what it says.

SENATOR MCLANE: Isn't it important for people to realize that if they wish to have that option of withdrawing hydration, nutrition, that they need an updated New Hampshire living will?

SENATOR RUSSMAN: Yes. I mean any type of large change, obviously, the old document should be reviewed whether it is a living will or living trust, anything along those lines.

SENATOR PRESSLY: Senator Russman, along the same lines, does this mean that instruments from other states are just automatic in effect, and that they will be honored here, and that anyone wishing to update it, as Senator McLane references, they should do it in any instance, but until such time, a document from another state would be used here?

SENATOR RUSSMAN: Right. It would allow the use of another document of another state here. Even if it didn't strictly conform to the statutes here in this state.

SENATOR PRESSLY: Thank you.

Adopted.

Ordered to third reading.

HB 1123, an act establishing procedures for representation in small claims court and authorizing persons to appear for corporations, partnerships, and trusts in district court. Judiciary committee. Ought to Pass with Amendment. Senator Colantuono for the committee.

5667L

Amendment to HB 1123

Amend the title of the bill by replacing it with the following:

AN ACT

establishing procedures for representation of
corporations, partnerships, and trusts
in small claims actions.

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Representation of Certain Corporations, Partnerships, and Trusts in Small Claims Actions. Amend RSA 503 by inserting after section 10 the following new section:

503:11 Representation of Certain Corporations, Partnerships, and Trusts.

I. To the extent not inconsistent with court rules, corporations, partnerships, and trusts may be represented in any small claims action before a district or municipal court as follows:

(a) A corporation with no more than 5 shareholders may be represented by any shareholder, officer or employee with the written authorization of all shareholders.

(b) A partnership with no more than 5 partners may be represented by any partner or employee with the written authorization of all general partners.

(c) A trust with no more than 5 beneficiaries may be represented by any trustee or employee with the written authorization of all trustees.

II. The requirement for written authorization in paragraph I shall be met by a document authorizing the representation by a particular individual in a particular matter and acknowledging that the corporation, partnership, or trust shall be bound by any agreement entered into by such individual or any order of the court in the matter. Any such written authorization shall be presented to the court under oath by the representative.

III. Nothing in this section shall prevent the court from denying representation by any individual it deems to be improper, inappropriate or unable to adequately represent the interests of the corporation, partnership, or trust.

2 Effective Date. This act shall take effect January 1, 1993.

AMENDED ANALYSIS

The bill sets out certain requirements for persons representing corporations, partnerships and trusts of limited size in small claims actions.

SENATOR COLANTUONO: This bill started out as a bill in the House to prohibit attorney's from appearing in small claims court, but for various good reasons the House didn't like that idea, so they

changed it into a bill to allow persons representing small businesses to do that in any district court action. Upon hearing in our Senate Judiciary committee, it was the feeling of the committee and the people testifying, that it is better off to change that idea to make it effective just for small claims actions, so the amendment on page six clears that up and allows representatives of small corporations, partnerships or trusts, or five shareholders, partners or beneficiaries or less to appear in a small claims action in a district court representing the corporation so that they don't have to hire an attorney. That is all that the bill does. We would recommend the bill as ought to pass as amended.

SENATOR FRASER: Senator, as a layperson, I couldn't appear in small claims court now?

SENATOR COLANTUONO: No, you couldn't, if on behalf of your corporation.

SENATOR FRASER: Oh, this applies to corporations only?

SENATOR COLANTUONO: Yes.

SENATOR FRASER: Thank you.

Committee amendment adopted.

Ordered to third reading.

HB 1187, an act making it first degree assault to knowingly or recklessly cause serious bodily injury to a person under 13 years of age. Judiciary committee. Ought to Pass. Senator Podles for the committee.

SENATOR PODLES: Mr. President, HB 1187 is a request of the New Hampshire Police Association. The law enforcement had a significant problem prosecuting the shaking baby type offense. The bill makes it a first degree assault, a class A felony, and generally carries a seven year imprisonment and, exclusive of fines for knowingly and recklessly causing serious bodily injury to a person under 13. The committee felt that the damage that is inflicted will stay with these victims for the rest of their lives and is more sufficient cause to elevate this category of offense. This is sort of filling a void, and it is not creating a new law, it is establishing the seriousness of child abuse, which involves a serious crime. The committee recommends ought to pass.

Adopted.

Ordered to third reading.

HB 1192, an act relative to remedies under the whistleblowers' protection act. Judiciary committee. Ought to Pass. Senator Podles for the committee.

SENATOR PODLES: Mr. President, HB 1192 allows the labor commissioner to award back pay to an individual who, after a legitimate finding, that he or she lost their job as the result of reporting an illegal activity by their employer. The whistleblower act has been in effect for two years. There are stringent criteria that must be met before a hearing is granted. There was no opposition to this bill, so the committee recommends ought to pass.

Adopted.

Ordered to third reading.

HB 1213, an act clarifying that notice of claim of paternity be filed prior to a mother's voluntarily relinquishing her rights pursuant to an adoption. Judiciary committee. Ought to Pass. Senator Podles for the committee.

SENATOR PODLES: Mr. President, HB 1213 was requested by the Children and Family Services. It allows the person claiming to be the father of the child being placed for adoption the right to request a hearing to determine paternity, providing he files a notice of his claim with the Office of Child Support Enforcement. The notice must be filed prior to the mothers rights being voluntarily or involuntarily terminated. Failure to file the notice prior to this time, shall bar the alleged father from bringing any action of establishing paternity and waive any right to adoption of the child. The current law has been open to interpretation and this bill merely clarifies current law. The committee recommends ought to pass.

SENATOR HEATH: Senator Podles, does the cutoff date or the cutoff point for claiming paternity, also cutoff a paternity suit towards the father?

SENATOR PODLES: No. I think that this is a different kind of bill than what you are talking about or a different kind of an issue. This is clarifying something that for instance, if a mother wants to put her child up for adoption and the father does not at a specific time, come up with some kind of a filing, then he loses that paternity case.

SENATOR HEATH: It is only in the case of adoption then?

SENATOR PODLES: Right.

SENATOR DISNARD: Senator Podles, is there any grandfathering in this, what happens to a father or child born previous to this? Is it for a child born after this takes effect or is it retroactive or what?

SENATOR PODLES: No. The person who is claiming paternity has to file within a certain time. If he doesn't do it, then he loses the case. But there is no grandfathering involved.

SENATOR DISNARD: So this would reflect on children just being born and any child?

SENATOR PODLES: No. This is a mother giving up her child for adoption immediately after birth.

Adopted.

Ordered to third reading.

HB 1217-FN, an act requiring a peace officer to give written notice of certain charges to the county attorney. Judiciary committee. Ought to Pass. Senator Hollingworth for the committee.

SENATOR HOLLINGWORTH: HB 1217 is an attempt to address the problem of double jeopardy as it has been interpreted in the constitutional principle by the United States Supreme Court and the New Hampshire Supreme Court. The New Hampshire Supreme Court has identified double jeopardy as encompassing all charges arising out of the same incident or the same series of incidents, and therefore, the state must charge and prosecute them all at the same time. Unfortunately, there has been a few cases where there has been a slip up and a violation has been charged and the person has not been able to be charged for the felony resulting out of that same situation. What this bill does, is merely direct the county attorney and the police departments to communicate within 24 hours, excluding weekends and holidays. That they are both handling prosecutions that resulted from the same incident. Since the initiative must come from the police, since he is the one who did the arrest, he must notify the county attorney to be able to respond and to organize the prosecution. There is no negative impact other than the accountability. The committee on Judiciary asks ought to pass on this bill.

Adopted.

Ordered to third reading.

HB 1283-FN, an act authorizing the human rights commission to award compensatory damages, levy administrative fines and award attorney's fees. Judiciary committee. Ought to Pass with Amendment. Senator Colantuono for the committee.

5662L

Amendment to HB 1283-FN

Amend the title of the bill by replacing it with the following:

AN ACT

authorizing the human rights commission to award
compensatory damages, levy administrative
fines and award attorney's fees, and
clarifying the jurisdiction of
courts reviewing orders
of the commission.

Amend the bill by replacing section 3 with the following:

3 Judicial Review and Enforcement. Amend RSA 354-A:10, III to read as follows:

III. Any party may move the court to remit the case to the commission in the interests of justice for the purpose of adducing additional specified and material evidence and seeking findings thereon, **or in the alternative to move the court to accept such additional evidence itself**, provided he shows reasonable grounds for the failure to adduce such evidence before the commission. [The findings of the commission as to the facts shall be conclusive if supported by sufficient evidence on the record considered as a whole.] **The superior court shall have the authority to make all rulings of law, findings of fact and determinations of damages and fines, if any, notwithstanding any such rulings, findings or determinations made by the commission.** All such proceedings shall be heard and determined by the court as expeditiously as possible and shall take precedence over all other matters before it, except matters of like nature. The jurisdiction of the superior court shall be exclusive and its final order or decree shall be subject to review by the supreme court in the same manner and form and with the same effect as in appeals from a final order or decree in proceedings in equity.

4 New Paragraph; Federal Court Action. Amend RSA 354-A:10 by inserting after paragraph IV the following new paragraph:

V. If the complainant brings an action in federal court arising out of the same claims of discrimination which formed the basis of an order or decision of the commission, such order or decision shall be vacated and any appeal therefrom pending in any state court shall be dismissed.

5 Effective Date. This act shall take effect January 1, 1993.

AMENDED ANALYSIS

This bill authorizes the human rights commission to award compensatory damages and levy administrative fines. This bill also authorizes the commission to award attorneys' fees to the respondent if the commission finds the complaint is frivolous, unreasonable, or without foundation.

The bill clarifies the jurisdiction of the superior courts and federal courts over appeals from orders of the commission.

This bill is the result of a study committee established in 1991, 161.

SENATOR COLANTUONO: This bill is a result of study committee over the summer. The Human Rights Commission, by federal law or regulation, needed to have these powers in order to keep their contract with HUD, relative to housing discrimination cases. Basically all that this bill does, is add power to the Human Rights Commission to award compensatory damages and levy fines to those parties that violate our Human Rights Commission law. The fines can go up to \$10,000 for the first offense and \$25,000 for the second and \$50,000 for the third offense. There was some concern raised at the hearing that by granting these additional powers to what is essentially a voluntary board of non experts, that there should be some higher level of superior court review to a party who has a grievance of who wants to appeal. So the amendment addresses that issue of page six. The amendment broadens the appeal rights of a person to go to the Superior Court. With that amendment the committee concurred and asked ought to pass as amended.

Committee amendment adopted.

Ordered to third reading.

HB 1353, an act relative to civil recovery of damages for shoplifting. Judiciary committee. Ought to Pass with Amendment. Senator Holdingworth for the committee.

5666L

Amendment to HB 1353

Amend RSA 544-C:1, IV as inserted by section 2 of the bill by replacing it with the following:

IV. A merchant and a person accused of shoplifting by such merchant may agree to execute a civil settlement agreement for \$200 in civil damages, plus the return of the merchandise or the replacement value of the merchandise within 60 days of the date the agreement is signed. The form of the settlement agreement shall be as follows:

Settlement of Claim for Taking Merchandise
Without Payment

The undersigned, _____, having failed to pay for certain merchandise, more specifically described as follows _____, hereby agrees to pay, within 60 days of the date this agreement is signed, civil damages in the amount of \$200, plus the merchandise or the replacement value of the merchandise. The parties agree that this payment shall constitute full and complete payment of damages to the following establishment _____. The following establishment _____ agrees to waive any and all claims it may have for civil damages.

Nothing in this agreement shall constitute an admission of guilt for purposes of criminal law. If this agreement is signed and payment is made in full within 60 days, no police report or criminal complaint will be filed by the merchant relative to this incident. However, nothing in this agreement can or will bar the state of New Hampshire from instituting such criminal prosecutions as it deems necessary.

Party #1

Party #2 for the following establishment:

Amend the bill by replacing section 5 with the following:
5 Effective Date. This act shall take effect October 31, 1992.

AMENDED ANALYSIS

This bill allows a person accused of shoplifting by a merchant and the merchant to settle all claims for civil damages by a written agreement in which the person agrees to pay, within 60 days of the signing of the agreement, the merchant \$200 and return the merchandise or pay the replacement value of the merchandise. In the agreement, the merchant states he will not file a police report or criminal complaint based on the shoplifting incident. The agreement, however, does not bar the state from instituting a criminal prosecution.

SENATOR HOLLINGWORTH: HB 1353 is a civil recovery bill. One of the objectives of the legislation is to reduce court cost and indigent defense cost. Another purpose is to help businesses to offset huge costs that incur from loss prevention measures. This bill would accomplish both, and would also act as an effective deterrent. Forty two states now have an active civil recovery bills. Shoplifting loss is amounting to about \$27 billion annually nationwide and is the fastest growing larceny crime. The current system pursuant to a

crime through court is time-consuming and expensive for the merchant, police and judicial system, even the shoplifter with normal reimbursement, rarely occurring. This bill will provide for the merchant to use a civil recovery process, rather than the claims through the court. The amendment makes the bill effective October 31 in time for the holiday shoplifting, hopefully not, and also puts in a day certain when the fine will be paid prior to the pursuant, through the courts. We ask ought to pass with amendment.

Committee amendment adopted.

Ordered to third reading.

HB 1471-FN, an act changing the penalties for theft of timber from another person's land or for altering the mark of any mill log belonging to another person. Judiciary committee. Ought to Pass with Amendment. Senator Russman for the committee.

5653L

Amendment to HB 1471-FN

Amend the bill by replacing all after the enacting clause with the following:

1 Prohibition. RSA 539:1 is repealed and reenacted to read as follows:

539:1 Forest Product. No person shall willfully and unlawfully cut, fell, destroy, injure or carry away any tree, timber, log, wood, pole, underwood or bark which is on the land of another person, or aid in such actions, without the permission of that person or his agent.

2 Purpose. The removal of references to criminal penalties in section 3 of this act is not intended to decriminalize such violations, but to encourage the prosecution of the same conduct under the provisions of the criminal code.

3 Civil Penalty. RSA 539:3-a is repealed and reenacted to read as follows:

539:3-a Civil Penalty. In addition to any other civil or criminal penalty allowed by law, any person who violates the provisions of RSA 539:1 or RSA 539:2 shall forfeit to the person injured 10 times the market value of every such tree, timber, log, lumber, wood, pole, underwood or bark cut, felled, destroyed, injured or carried away.

4 Reference Added. Amend RSA 224:26, I to read as follows:

I. The director of the division of forests and lands and his authorized agents shall have the authority of peace officers as defined under RSA 594:1 to serve criminal processes and make arrests to enforce the provisions of this chapter and **any** other laws [pertaining], **including title LXII, insofar as they pertain** to the protection, improvement, and extension of woodlands throughout the

state, and for the protection of persons and property on lands or property owned by, leased to, or otherwise under the control of the department of resources and economic development.

5 Effective Date. This act shall take effect January 1, 1993.

AMENDED ANALYSIS

This bill changes the penalty for persons who are charged with theft of timber from another's land or for altering the mark of any mill log belonging to another person. Such theft of timber also is a "theft" for the purposes of RSA 637. The bill increases the civil penalty from 5 times to 10 times the market value of the timber illegally taken.

SENATOR RUSSMAN: Thank you. This bill places the timber theft into the criminal code and also increases the civil penalty from 5 to 10 times the amount of damages for cutting wrongfully.

Committee amendment adopted.

Ordered to third reading.

HB 1110, an act relative to the method of electing delegates to state party conventions. Public Affairs committee. Ought to Pass. Senator Bass for the committee.

SENATOR BASS: Mr. President, HB 1110 adds a sentence to chapter 653 which requires that you get at least 10 percent of the vote or 10 votes in order to be elected a delegate to a state convention. This prevents people like Mickey Mouse and Daffy Duck from getting elected at state conventions. It is better to have real candidates to win these elections. I was going to say Mickey Mouse, Daffy Duck or Roger Heath, but . . . the committee urges your adoption of the committee amendment and the report of ought to pass.

SENATOR DISNARD: Senator Bass, in several of the communities, believe it or not, 10 people may not show up for the caucus. Does that mean that those people will be disenfranchised and not to be allowed to elect a delegate?

SENATOR DISNARD: No. The way that the sentence reads is that 10 votes or 10 percent, whichever is less. So say that there were 10 people in the community, it would be one person. If there was less than 10, you decide.

Adopted.

Ordered to third reading.

HB 1173, an act allowing a beneficial interest owner of a trust owning real estate to qualify for property tax exemptions and credits

and allowing the veterans' exemption for service in the Gulf War. Public Affairs committee. Ought to Pass. Senator W. King for the committee.

SENATOR W. KING: Under current law, a veteran who puts their property in a irrevocable trust is not allowed to take the property tax exemption. That seemed to run contrary to the intent of the law. DRA testified in favor of this. The second part of the bill, part three, merely corrects a glitch in the law, which is in regard to the title of the metal in which the folks who served in the Persian Gulf received. The law currently reads, "an armed forces expeditionary metal", but since the people who served in the Persian Gulf received a theater of operations metal, that was added to the current existing law.

Adopted.

Ordered to third reading.

SENATOR DUPONT: We have a special guest today that I would like to introduce to the Senate and ask him to say just a few brief words, Mr. John Owen who is the British Consul General from Boston, and it is a privilege to have him join us today. He has a distinguished career, both in the private sector and in industry as well as in the foreign service for Britain and it is a great pleasure to welcome you here today.

JOHN OWEN: Thank you, Mr. Senate President, distinguished Senators. I am delighted to be here today in Concord and very honored to be in this position this afternoon and to be introduced to you all. I am not as you know, the diplomatic service, in Britain it is political, so I am sure that you won't expect me to say anything about the British General election this afternoon. But I would say that it looks as if it is going to be too close to call at the moment. I have been in Boston for two months, which is my base, of course, for New England. I am delighted to have the opportunity of visiting New Hampshire, not just today, but on three other occasions: once in Portsmouth, once in North Conway. It is a beautiful state, and it is a state in which is common with Britain at the moment. We have our problems in the economy, but it is a situation in which we will all recover from, because at the end of the day it is the resilience of the people of the nation which provides the basis for recovery. From what I have seen in my short time in New Hampshire, I am sure that you have that basis which will bring you recovery for the will of the people. I wish you all well. Thank you very much for welcoming me here today, and I look forward to coming back on many other occasions. Mr. Senate President, thank you.

HB 1202, an act permitting municipalities that have biennial municipal elections to submit charter changes for approval at biennial state elections. Public Affairs committee. Ought to Pass with Amendment. Senator Bass for the committee.

5650L

Amendment to HB 1202

Amend the title of the bill by replacing it with the following:

AN ACT

permitting municipalities that have biennial municipal elections to submit charter changes for approval at biennial state elections, relative to filing for more than one seat on the same municipal board, and relative to the authority of the Concord charter commission.

Amend the bill by replacing all after the enacting clause with the following:

1 Charter Commission, Membership, Procedure; Municipalities with Biennial Elections. Amend RSA 49-B:4, VI to read as follows:

VI. Upon the filing of the final report, the municipal officers shall order the proposed new charter or charter revision to be submitted to the voters at the next regular municipal election **or, in the case of municipalities with biennial elections, at the next regular state biennial election** held at least 60 days after the filing of the final report.

2 Charter Amendments, Procedure; Municipalities with Biennial Elections. Amend the introductory paragraph of RSA 49-B:5, I to read as follows:

I. The municipal officers may determine that amendments to the municipal charter are necessary and, by order, provide for notice and hearing on them in the same manner as provided in RSA 49-B:5, IV(a). Within 7 days after the hearing, the municipal officers may order the proposed amendment to be placed on a ballot at the next regular municipal election **or, in the case of municipalities with biennial elections, at the next regular state biennial election** held not less than 60 days after the order is passed; or they may order a special election to be held not less than 60 days from the date of the order for the purpose of voting on the proposed amendments.

3 Charter Amendments Procedure; Municipalities with Biennial Elections. Amend RSA 49-B:5, IV(c) to read as follows:

(c) On all petitions filed more than 120 days prior to the end of the current municipal year, the municipal officers shall order the

proposed amendment to be submitted to the voters at the next regular municipal election **or, in the case of municipalities with biennial elections, at the next regular state biennial election** held after the filing of the final report. Unrelated charter amendments shall be submitted to the voters as separate questions.

4 New Section; Filing for more than One Seat on City Board. Amend RSA 44 by inserting after section 2 the following new section:

44:2-a Filing for City Offices. In accordance with the provisions of RSA 44:2, no candidate for a city office shall file for more than one seat on a city or school district board, commission, committee, or council.

5 New Section; Filing for Town Offices. Amend RSA 669 by inserting after section 17 the following new section:

669:17-a Filing Candidacy. No person shall file as a candidate for a town officer under the provisions of RSA 669:19, 20, or 42 for more than one seat on the same town or school district board, commission, committee, or council.

6 New Section; Filing for Village District Offices. Amend RSA 670 by inserting after section 4 the following new section:

670:4-a Filing Candidacy. No person shall file as a candidate for a village district office for more than one seat on the same village district or school district board, commission, committee, or council.

7 Application. Sections 4-6 of this act shall in no way disqualify any municipal officer from any elective office to which he was elected prior to the effective date of this act.

8 Authority of Concord Charter Commission. Notwithstanding any provision of RSA 49-B or RSA 49-C to the contrary, the charter commission of the city of Concord in existence on the effective date of this act is authorized to include in its report and submittal to the voters:

I. The opportunity to choose between the alternate plans of government specified in RSA 49-C;

II. The opportunity to elect a mayor-at-large under the council-manager plan who shall be counted to make a quorum and vote as a member of the elected body;

III. The opportunity to provide for a definite term for the city manager under the council-manager plan; and

IV. Transition measures associated with the change in the number of wards approved by the voters at the special election of February 18, 1992.

9 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill allows municipalities that have biennial municipal elections to submit charter changes for approval at biennial state elections.

The bill prohibits municipal officers from filing to be a candidate for more than one seat on the same municipal or school district board, commission, committee, or council.

The bill also authorizes the Concord charter commission to submit to the voters certain provisions relating to the form of government and transition measures relating to the city wards.

SENATOR BASS: Mr. President, first it allows municipalities to approve changes in charters in biennial elections rather than just in municipal elections, thereby shortening the timeframe for a charter to be adopted from which would be in the cities, at least one year to about six or seven months. The second part of the bill prohibits somebody from filing for the same office more than once, i.e. if there is a race for selectman, you can't file for three seats, if they are changing the form of government. Thirdly, there are some specific exemptions in chapter law for the city of Concord whose charter commission wishes to discuss some issues that aren't specifically outlined in chapter 49. The committee urges your adoption of the amendment and the report of ought to pass as amended.

Recess.

Out of recess.

LAID ON THE TABLE

Senator W. King moved to have HB 1202 an act permitting municipalities that have biennial municipal elections to submit charter changes for approval at biennial state elections laid on the table.

Adopted.

HB 1202 is laid On the table.

HB 1251, an act relative to the observance of Memorial Day by school districts. Public Affairs committee. Ought to Pass. Senator Bass for the committee.

SENATOR ROBERGE: Mr. President and members of the Senate, the analysis is correct. Under current law, a school or a college or a university can be penalized for being open on the date when New Hampshire observes Memorial Day. This bill removes that penalty by allowing the school, college or university to choose to celebrate either the state holiday or the federal holiday. We heard overwhelming testimony in favor of this particular piece of legislation. There

are towns that can't get a parade together on the Memorial Day because they can't get enough veterans to all have the same day off. The children are frequently in conflict with their parents. We feel that it was time that people could observe their family day together and I urge you ought to pass.

Adopted.

Ordered to third reading.

Senator Heath in opposition to HB 1251.

HB 1308, an act relative to technical changes to the municipal charter laws. Public Affairs committee. Interim Study. Senator Bass for the committee.

SENATOR BASS: Mr. President, this bill was brought to our committee as being an effort to make technical changes to chapter 49 which we made some rather massive rewriting of last year. In the course of the public hearing it became apparent to me that there were a number of questions about the dates and so forth that hadn't really been resolved and noticing that various people who are interested in this issue were trying to figure it out in the public hearing, while the public hearing was going on. I came to the conclusion and recommended to the committee that we put this bill into interim study. There isn't any hurry about changing these dates, they are technical, but the effect of changing them might be to cause more problems that might be solved. So I urge your adoption of the committee report of interim study.

LAIID ON THE TABLE

Senator W. King moved to have HB 1308 an act relative to technical changes to the municipal charter laws laid on the table.

Adopted.

HB 1308 is laid on the table.

HB 1327-FN, an act prohibiting the state or any of its political subdivisions from requiring public assistance applicants to cross picket lines to apply for jobs. Public Affairs committee. Ought to Pass. Senator W. King for the committee.

SENATOR W. KING: This bill is fairly simple. All that it says is that when individuals are receiving public benefits and are required to be out looking for jobs, that the agency that requires them to go out looking for a job, may not force them to cross a picket line in order to keep their benefits. I guess that happened down in Manchester. Let me quickly tell you that the Department of Health and Human Services currently has this as a procedural guideline and for some rea-

son, in this particular instance, it didn't happen, and so it was felt necessary to codify it. It was the unanimous vote of the committee, I believe.

Adopted.

Ordered to third reading.

HB 1220-FN-L, an act changing the method for calculating stumpage values for purposes of assessing the yield tax on timber. Ways and Means committee. Ought to Pass. Senator Hollingworth for the committee.

SENATOR HOLLINGWORTH: HB 1220 does no more than clarify the definition of stumpage value in RSA 79 to make it clear to a local tax assessor what their obligations are. In the current law they already have that advantage, but some of them are still using the old method and this would make it clear to them that they are to use this method to be fair and to allow for the landowner to challenge, should there be an unfair tax assessment. This also allows for an appeal process. We ask that you support ought to pass.

Adopted.

Ordered to third reading.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of which the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

SB 410, relative to AIDS.

SENATE NONCONCURS REQUEST COMMITTEE OF CONFERENCE

SB 410, relative to AIDS.

Senator J. King moved noncurrence requests a committee of conference.

The President, on the part of the Senate, has appointed as members of said Committee of Conference: Senators: J. King, McLane, Fraser.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

SB 360, establishing a committee to study head injury cases in New Hampshire.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 360, establishing a committee to study head injury cases in New Hampshire.

Senator J. King moved concurrence.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

SB 380, relative to membership on planning boards in towns with the town council form of government and relative to the 4-year exemption from certain subdivision regulations and zoning ordinances.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 380, relative to membership on planning boards in towns with the town council form of government and relative to the 4-year exemption from certain subdivision regulations and zoning ordinances.

Senator Bass moved concurrence.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

SB 398, permitting the sale of red deer and elk venison.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 398, permitting the sale of red deer and elk venison.

Senator Heath moved concurrence.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and Senate Bills:

HB 285, relative to constructing regional vocational centers and making an appropriation therefor.

HB 585, recodifying the laws relative to emergency medical services.

HB 1054, relative to the industrial development authority.

HB 1107, requiring that tax collectors provide property owners with notices of arrearages for property taxes.

HB 1118, relative to membership of the permanent committee for barrier-free design.

HB 1119, relative to the New Hampshire automated information system board.

HB 1122, establishing a committee to study all areas of apple cider standards, licensing and labeling.

HB 1286, allowing antique motor vehicles other than antique motorcycles to be registered at a prorated rate.

HB 1341, clarifying the terms "subsequent tax" and "registered" and "certified" mail for purposes of certain property tax laws.

SB 303, establishing a committee to study the various options available to fund and deliver medical benefits for state employees and relative to the funding methodology of the retirement system.

SB 313, relative to gender balance on boards and commissions.

SB 367, authorizing the department of resources and economic development to sell the Nansen ski jump facility if no interest exists in the private sector to maintain and operate the facility.

SB 386, relative to the publications, specialty items and fund raising revolving fund of the fish and game department and authorizing certain fund raising by the department.

SB 388, relative to preserving utility licenses on municipal and state discontinued highways.

SB 430, relative to the establishment of regional offices for the vocational rehabilitation division.

ANNOUNCEMENTS

RESOLUTION

Senator Delahunty moved that the business of the day being completed, the Senate recess to the Call of the Chair for the sole purpose of appointing members of Committee of Conferences and that when we adjourn, we adjourn until Thursday, April 9, 1992 at 1:00 p.m.

Adopted.

Senator Currier moved that we recess to the Call of the Chair.

Adopted.

LATE SESSION

Third Reading and Final Passage

HB 61-FN, an act repealing the prospective repeal of the victims' assistance fund and making technical corrections in the distribution of penalty assessment funds.

HB 526-FN, an act relative to extended terms of imprisonment and transfers to the state prison.

HB 693-FN, an act relative to disclosure of tax records related to investigations by the attorney general and relative to forfeiture of items seized in connection with controlled drug offenses.

HB 1108, an act authorizing valid living wills executed in other states to be recognized in New Hampshire.

HB 1110, an act relative to the method of electing delegates to state party conventions.

HB 1123, an act establishing procedures for representation in small claims court and authorizing persons to appear for corporations, partnerships, and trusts in district court.

HB 1173, an act allowing a beneficial interest owner of a trust owning real estate to qualify for property tax exemptions and credits and allowing the veterans' exemption for service in the Gulf War.

HB 1187, an act making it first degree assault to knowingly or recklessly cause serious bodily injury to a person under 13 years of age.

HB 1192, an act relative to remedies under the whistleblowers' protection act.

HB 1213, an act clarifying that notice of claim of paternity be filed prior to a mother's voluntarily relinquishing her rights pursuant to an adoption.

HB 1217-FN, an act requiring a peace officer to give written notice of certain charges to the county attorney.

HB 1220-FN-L, an act changing the method for calculating stumpage values for purposes of assessing the yield tax on timber.

HB 1251, an act relative to the observance of Memorial Day by school districts.

HB 1283-FN, an act authorizing the human rights commission to award compensatory damages, levy administrative fines and award attorney's fees.

HB 1327-FN, an act prohibiting the state or any of its political subdivisions from requiring public assistance applicants to cross picket lines to apply for jobs.

HB 1353, an act relative to civil recovery of damages for shoplifting.

HB 1471-FN, an act changing the penalties for theft of timber from another person's land or for altering the mark of any mill log belonging to another person.

Recess.

Out of recess.

Senator Dupont in the Chair.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate and request a Committee of Conference:

HB 1025-A, relative to budget adjustments for fiscal years 1992 and 1993.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

Representatives: C. Gross, E. Hager, H. Burns, M. Chambers. Alternates: M. Schotanus, D. Hall, T. Nardi, C. Brown.

SENATE ACCEDES TO HOUSE REQUEST FOR A COMMITTEE OF CONFERENCE

HB 1025-A, relative to budget adjustments for fiscal years 1992 and 1993.

Senator Blaisdell moved to accede to the House request for a Committee of Conference.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

Senators: E. Dupont, C. Blaisdell, R. D. Hough. Alternates: J. Delahunty, W. King.

Senator Fraser moved that the business of the day being completed, the Senate now adjourn until Thursday, April 9, 1992 at 1:00 p.m.

Adopted.

Senator Currier moved that we recess to the Call of the Chair.

Adopted.

Recess.

April 9, 1992

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. David P. Jones, Senate Guest Chaplain.

Someone told me it was silly for me to come over here and pray with you, because all you wanted each time from me was a generic tip of the hat to a traditional political mythology which requires the mention of God in passing before you can safely forget him and rush on to business. I told that person I didn't think that was how you felt at all — and that if it was how you felt, then the really silly thing for me would be to not pray for you. So let's do it.

This Senate needs your help, O Lord — all afternoon. May the legislative fingerprints they leave on each of us who live in New Hampshire, bear a striking resemblance to your own fingerprints. Amen

Senator Heath led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

SENATOR BLAISDELL (Rule #44): In the last few months, as you know, we have been going through some very tough times, but today was a very pleasant day for me. I want to show you that after 74 years, today I received my fathers' purple heart. I am very proud of it. We tried to get this while he was alive, but it didn't happen because all of the records were in St. Louis and the building burnt down. So one time, oh about a month ago, I was talking to General Lloyd Price and he said to me, we were talking about war stories, and he said "let me see if I can look into it". So lo and behold, about a week ago, he called me and told me that the records had been found, and my fathers' purple heart is with me and the other metals. He was with the Yankee Division, the 26th Division, and these are the battles that he was in in World War I. My father and I were very close, he died when he was 47 years of age, he was gas wounded and

shell shocked in the first World War. My father died four hours before I got home from Shanghai, China, back in 1946. He died at two o'clock in the morning and I got home at six o'clock in the morning. His memory will be with me for as long as I live and my sisters, but this is something that I am deeply proud of. Thank you.

Senator Russman is excused for the day.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the passage of the following entitled Senate Bills sent down from the Senate:

SB 318-L, relative to fire protection areas within the town of Litchfield.

SB 322, establishing a committee to study the effectiveness of the laws decommissioning nuclear power plants.

SB 329, authorizing the New Hampshire housing finance authority to assist tenants when a manufactured housing park is undergoing condominium conversion.

SB 333, relative to a Piscataqua River basin council.

SB 470-FN-L, relative to using electronic monitoring devices and community supervision as an alternative to prison.

SB 396-FN, relative to motor vehicles and defaults on court fines and taxes.

SB 403-L, requiring that dogs and cats placed by shelters and pounds be spayed or neutered.

SB 447-L, increasing the rate of interest paid on the amount of taxes abated.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendment to the following entitled House Bill sent down from the Senate:

HB 1242, establishing a study committee on certain current use issues.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bills sent down from the Senate:

SB 342, relative to resisting arrest or detention.

SB 387, authorizing legally constituted boards and commissions which are created for the purpose of state historic site restoration the option of retaining ownership of any historic site furnishings which they acquire with other than state funds.

SB 391, relative to the use of surplus campaign contributions by candidates for state office.

SB 429, relative to selecting engineers, architects, and surveyors by state agencies.

SB 432-FN, relative to motorcycle noise level limits.

HOUSE MESSAGE

The House of Representatives has referred for Interim Study the following entitled Senate Bills sent down from the Senate:

SB 469-FN, relative to service retirement allowances and continuing education conferences for retirement system board of trustees.

SB 444, relative to the definition of ski craft.

COMMITTEE REPORTS

HB 1135, an act relative to liquidation under the supervision of the bank commissioner. Banks committee. Ought to Pass. Senator Fraser for the committee.

SENATOR FRASER: Mr. President, what HB 1135 does is, it allows the commissioner to immediately go to the Superior Court, when as a result of examination that it reflects that the bank is in the negative capital position or when he receives notice from the Federal Deposit Insurance Corporation that the agency has ceased providing insurance. Under the current law, Mr. President, there is a long notice process that is involved, and in the meantime, the assets of a bank could be further decapitated before the Banking Commissioner could take over, and we urge passage of the bill.

Adopted.

Ordered to third reading.

HB 1137-FN, an act relative to nondepository first mortgage bankers and brokers. Banks committee. Ought to Pass. Senator Fraser for the committee.

SENATOR FRASER: Mr. President, HB 1137 sets up a criteria for the handling of consumer complaints. I want to add at this time, Mr. President, that the criteria for setting up the consumer complaint process also applies to HB 1139 and HB 1141, which are the next two bills. HB 1137, 1139 and 1141 which are in order on the calendar,

Mr. President, are all doing the same thing for three different regiments. What the criteria basically suggests is that the complaint when received from the Banking Commissioner, he has to send by certified mail, a copy of the complaint to the financial institution that is involved. They must undertake an investigation within 60 days and make the appropriate adjustments or transmit in writing, to the consumer, and to the Banking Commissioner, the results of their investigation. In other words, Mr, President, right now there is no criteria handling of consumer complaints. For these three bills, all have the identical language for setting up that format.

Adopted.

Ordered to third reading.

HB 1139-FN, an act relative to persons licensed to offer second mortgage home loans. Banks committee. Ought to Pass. Senator Fraser for the committee.

SENATOR FRASER: As I indicated earlier, the criteria for handling of consumer complaints is now codified in 1139 as it applies to persons licensed to offer second mortgage home loans, and we urge its passage.

Adopted.

Ordered to third reading.

HB 1141, an act relative to retail installment sales of motor vehicles. Banks committee. Ought to Pass. Senator Fraser for the committee.

SENATOR FRASER: Once again, Mr. President, the same criteria is now in 1141 as it applies to retail installment sales of motor vehicles' handling of consumer complaints. We urge its passage.

SENATOR COLANTUONO: Senator Fraser, I noticed in the analysis that this bill removes the intent requirement for conviction of a person. I am a little concerned about that because generally, if an intent is not stated in the law, then it has to be guessed at or presumed by a court, because all crimes need some type of intent. Can you tell me the reason for doing this and why it was taken out without any other intent being specified in there?

SENATOR FRASER: Well I suppose . . . my only suggestion, Senator, is the fact that because of the process, and the fact that so much is required, and the law is very clear on what has to be done. And the fact that they are notified, I assume, that the drafter was saying that the requirements were being willful and intentional, are no

longer necessary. I just have to assume that, because I really don't know. The criteria is the first time that it has any type of form of criteria established.

Adopted.

Ordered to third reading.

HB 1136-FN, an act relative to regulation of small loans. Banks committee. Ought to Pass. Senator Disnard for the committee.

SENATOR DISNARD: I rise for the committee on Banks and we recommend recommit.

MOTION TO RECOMMIT

Senator Disnard moved to recommit HB 1136-FN an act relative to regulation of small loans.

Adopted.

HB 1136 is recommitted to the Banks committee.

HB 1142, an act permitting the bank commissioner to delegate duties and responsibilities. Banks committee. Ought to Pass with Amendment. Senator McLane for the committee.

5713L

Amendment to HB 1142

Amend RSA 383:7-a as inserted by section 1 of the bill by replacing it with the following:

383:7-a Delegation of Duties and Responsibilities.

I. The commissioner may delegate to deputies, assistants, examiners, or employees of the banking department the exercise or discharge in the commissioner's name of any power, duty, or function, whether ministerial, discretionary or of whatever character, vested in or imposed upon the commissioner. However, he shall not delegate his rulemaking powers.

II. The official act of any such person acting in the commissioner's name and by his authority shall be deemed an official act of the commissioner.

III. The delegation of duties and responsibilities shall be made by the commissioner in writing, and shall state an effective date.

IV. The delegation of duties and responsibilities made under this section shall expire one year from the effective date of the delegation unless renewed by the commissioner.

V. The commissioner shall provide any board or commission 10 days' written notice of his intent to delegate his duties and responsibilities to serve on such board or commission.

AMENDED ANALYSIS

This bill grants the bank commissioner authority to delegate his duties and responsibilities to assistants, examiners and other employees of the banking department.

SENATOR MCLANE: The Bank Commissioner is on many statutory boards, such as the Retirement System, the Real Estate Appraisal Board, the Board of Trust and Corporations, and he also has many statutory duties which he cannot vest in anyone else. He put in a bill asking if he could delegate two deputies, assistants, examiners or employees. We tightened up that bill somewhat. We said that the delegation has to be in writing, and it has to be ten days before the duty or responsibility, and that the delegation to a Board or Commission will expire in one year, and it must be renewed. Then we felt that it was a better use of his time, and we were happy to pass the bill with those amendments.

Committee amendment adopted.

Ordered to third reading.

HB 1156, an act changing the annual rate of interest on judgments and business transactions. Banks committee. Ought to Pass with Amendment. Senator Fraser for the committee.

5708L

Amendment to HB 1156

Amend the bill by replacing section 1 with the following:

1 Rate of Interest on Judgments and Business Transactions.
Amend RSA 336:1 to read as follows:

336:1 Rate of Interest. The annual rate of interest on judgments and in all business transactions in which interest is paid or secured, unless otherwise agreed upon in writing, shall equal [10] 8 percent.

AMENDED ANALYSIS

This bill changes the annual rate of interest on judgments and business transactions from 10 percent to 8 percent.

SENATOR FRASER: Mr. President, the current law in New Hampshire in the New Hampshire Courts is that the rate of interest on judgments is ten percent. The Department of Transportation originally asked that this bill be introduced to reduce it, because of eminent domain proceedings and condemnation proceedings. The bill came out of . . . first of all, I would like to say that the current rate of interest on judgments in the federal court is the T-bill rate. The bill came over to the Senate with an amendment requesting that it was a

T-bill rate price of two points. After the public hearing, the committee agreed that probably a good compromise would be eight percent. So what the bill in affect does, is reduce the interest on judgments from ten percent to eight percent. We would urge its passage.

SENATOR NELSON: This is a question of the Chair first.

SENATOR DUPONT: Go ahead, Senator.

SENATOR NELSON: I would like to have this motion be inexpedient to legislate. But I would just like to tell you that and . . .

SENATOR DUPONT: Well, let me just tell you, Senator Nelson, that you would have to defeat the amendment, then the bill would be ought to pass at that point, and that would have to be defeated before you could then offer your motion of inexpedient to legislate.

SENATOR NELSON: Now may I speak or am I allowed to do that after a question?

SENATOR DUPONT: Yes, you are allowed to speak.

SENATOR NELSON: Thank you.

SENATOR NELSON: As a sponsor of this piece of legislation of 1156, I rise in opposition to the bill and I would like to tell my colleagues why. I was asked by the Department of Transportation to introduce this piece of legislation for the purpose of dealing with eminent domain in the state of New Hampshire. Having looked into it a little more closely, as I was contacted by many people from around the state, this has far-reaching implications. It will not only effect the Department of Transportation. I am sure that there are some things that can be worked out for the state, but at this time, I do not think that this is the vehicle that we should use to help the Department of Transportation.

SENATOR PRESSLY: Members of the Senate, with all due respect, I rise in opposition to my own committees suggestion and I support Senator Nelson, the sponsor's recommendation. I believe that there was a great misunderstanding relative to this. There was testimony that this would impact a small business person in a very onerous way. The ramifications for a small business person would be very negative. For that reason, I think that if the Department of Transportation does need something else, they could come back and they could narrow the scope of this so that small people would not be injured. I support inexpedient.

SENATOR COLANTUONO: Senator Fraser, since the purpose of the original bill was to allow the Department of Transportation to pay less money on their eminent domain proceedings, did it ever

come up in the committee, was there ever a suggestion made by anyone to limit the bill to just eminent domain proceedings?

SENATOR FRASER: No, there wasn't. This is kind of a Murphy's Law that is attached to this bill. The original bill, as I understand it, it was going to be identical with the federal court, namely the rate of interest would be tied to the T-bill rate. In the House, the New Hampshire Bar Association, among others, reached an accord on adding two points to it in order to get something that everybody could agree upon. I don't know at that juncture whether New Hampshire Trial Lawyers testified for or against the bill, I really don't know, but when it got into our committee, the bill looked like it was going to sail through with the compromise of the T-bill rate, plus the two points. But the New Hampshire Trial Lawyers Association appeared and felt that that was inadequate and that they wanted to maintain the current ten percent. It was a compromise upon a compromise as Representative Kruger addressed it yesterday, to come in at eight percent, something that the House said that they would agree upon, at least that was the impression of the committee, that the House would agree upon the eight percent. I don't know exactly what effect it would have on the small business owner, aside from anyone who litigates an issue and receives a judgment, whether it be a small business or large business or whomever. The Insurance Industry came in, needless to say, and they supported the six percent, but, I thought, it was our feeling, that an eight percent compromise was in the best interest of everyone.

SENATOR NELSON: Senator Fraser, in your wisdom and experience on that committee, if I were to follow up on Senator Colantuono's question, do you think that there is a possibility of restricting this legislation to just include eminent domain for the Department of Transportation, or that couldn't be done? Could we recommit it, to look into it?

SENATOR FRASER: Senator Nelson, I don't know. I don't know.

MOTION TO RECOMMIT

Senator McLane moved to recommit HB 1156 an act changing the annual rate of interest on judgments and business transactions.

Adopted.

HB 1156 is recommitted to the Banks committee.

HB 1330, an act prohibiting certain credit card practices involving providers of travel services. Banks committee. Ought to Pass with Amendment. Senator Fraser for the committee.

5547L

Amendment to HB 1330

Amend RSA 358-N as inserted by section 1 of the bill by inserting after RSA 358-N:3 the following new section:

358-N:4 Exemption. This chapter shall not apply to air carriers as defined in RSA 422:3, II.

AMENDED ANALYSIS

This bill prohibits providers of travel services, as distinguished from travel agents who usually act as agents of such providers, from deducting credit card fees from the commissions due a travel agent when the consumer uses a credit card to obtain credit in the transaction. The bill exempts air carriers from the application of the chapter.

SENATOR FRASER: Mr. President, 1330 was a bill that was requested by the Travel Agents of New Hampshire. Effectively what is happening so far as tour operators are concerned, is that the travel agents are paid 10 percent commission on any arrangements that they make with tour operators, but what the tour operators do is that they deduct the cost of credit card charges from the agents commission. The committee agreed that this was an unfair practice and as compared with the airlines who pay the agent the ten percent commission on bookings and then they take five percent or whatever that amount might be for credit card charges, and the airline keeps the balance. So, we thought that this bill was warranted. We did delete the common carriers from the bill, but we thought that as far as tour operators were concerned, that our travel agents were being treated unfairly. We urge that this bill which would disallow this practice, that this bill ought to pass with amendment.

SENATOR HEATH: Senator Fraser, obviously, somebody has to make up the difference, who will take the hit on that?

SENATOR FRASER: It will be spread.

SENATOR HEATH: How will it be spread?

SENATOR FRASER: The agent will be paid their commission, then the tour operator will pay the credit card charge.

SENATOR HEATH: So the tourist will take the bump on it, right?

SENATOR FRASER: No. Not any more than they are taking now. The tourist pays one dollar. Today under the practice, they take the credit card charge out of the agents commission.

SENATOR HEATH: Ten cents.

SENATOR FRASER: Ten cents. Then they take out of that ten cents, they take the credit card charge.

SENATOR HEATH: One cent or two cents.

SENATOR FRASER: Whatever it might be. But that wouldn't change. The one dollar the tourist still would pay.

SENATOR HEATH: But won't it increment up that dollar, if the agent isn't paying it and the credit card company is still getting their percentage, somebody has to pay that? If it isn't coming out of the agents, then it is going to come out of the tourist, isn't it?

SENATOR FRASER: Well, it would anyway. There wouldn't be any difference, it is just a question of how that one dollar is going to be split.

SENATOR HEATH: Well right now the travel agent is taking the head, right? Would you believe that right now, under the present circumstances, that the travel agent is essentially paying the credit card company their portion?

SENATOR FRASER: Yes, exactly.

SENATOR HEATH: Isn't this sort of a form of price control, and shouldn't this be left to the individual parties to negotiate in a free economic system, like ours?

SENATOR FRASER: Sure. They are common carriers, they are all negotiated issues, but with the tour operators, this doesn't happen. This is the way that it is, they just mandate that you will pay the credit card charges out of your commission. We thought that that was inequitable.

SENATOR HEATH: Isn't it true that no travel agent has to do business with an individual or a corporation that does this practice. That they are under no obligation?

SENATOR FRASER: Do you mean that there might be more than one offering the same service? That they could go to 'b' rather than 'a'?

SENATOR HEATH: I am asking, would you believe, isn't it true that a travel agent can refuse to do business with a group booker that practices that credit card percentage coming out of their percentage?

SENATOR FRASER: But the testimony indicated that all tour operators have this practice where it is not prohibited.

SENATOR HEATH: If the travel agents decided not to book with anyone that did that, wouldn't the people who do tours quickly find that they didn't have any customers selling their tours?

SENATOR FRASER: Possibly, except that in the meantime, the travel agent isn't providing a service that has been requested of them.

SENATOR PRESSLY: Senator Fraser, I ask if my recollection of the hearing is accurate. My recollection of the hearing was that after all of the debate and all of the discussion, that the travel agents and the airlines spoke very amicably how well the situation was currently working and how things really were not a problem and spoke very eloquently about the good working relationship that currently exists between them. Is that correct?

SENATOR FRASER: That is absolutely correct.

Committee amendment adopted.

Ordered to third reading.

Senator Heath in opposition to HB 1330.

HB 497-FN-A, an act relative to an equipment challenge grant program for vocational and technical education programs. Education committee. Ought to Pass with Amendment. Senator Disnard for the committee.

5683L

Amendment to HB 497-FN-A

Amend the title of the bill by replacing it with the following:

AN ACT

relative to an equipment challenge grant program for
vocational and technical education programs,
establishing an equipment challenge fund,
and making an appropriation therefor.

Amend RSA 188-F:45 as inserted by section 2 of the bill by replacing it with the following:

188-F:45 Report. At the conclusion of each biennium, the steering committee shall submit a report on the accountability of the program to the legislative oversight committee, the commissioner of postsecondary technical education, the commissioner of education, the governor, the president of the senate, and the speaker of the house no later than October 1, of each subsequent biennial period. The report shall include an annual accounting of the expenses of the program and the distribution of the grants provided under RSA 188-F:43, III(a).

Amend section 2 of the bill by inserting after RSA 188-F:47 the following new sections:

188-F:48 Legislative Oversight Committee. There is hereby estab-

lished a legislative oversight committee. The committee shall consist of the chair of the senate education committee, one senator appointed by the president of the senate, the chair of the house education committee, and one representative appointed by the speaker of the house. The committee shall be responsible for reviewing the annual accounting report of the steering committee. The committee shall also review and approve criteria for awarding grants and determining financial need as established in RSA 188-F:47, I and RSA 188-F:50.

188-F:49. Equipment Challenge Fund. There is hereby established a nonlapsing equipment challenge fund. The money appropriated under section 3 of this act and any other grant money donated to the equipment challenge grant program shall be placed in this fund. All funds received under this section are continually appropriated to the department of postsecondary technical education for the purposes of the equipment challenge grant program, as provided in RSA 188-F:43, III(a).

188-F:50 Grants; Criteria. The steering committee shall establish criteria for determining financial need to be used to award grants.

Amend the bill by inserting after section 2 the following and renumbering the original section 3 to read as 5:

3 Appropriation. The sum of \$1 is hereby appropriated for the biennium ending June 30, 1993, to the department of postsecondary technical education's equipment challenge fund for the purposes of this act. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

4 New Subparagraph; Equipment Challenge Fund. Amend RSA 6:12, I by inserting after subparagraph (uu) the following new subparagraph:

(vv) Moneys received under RSA 188-F:49, which shall be credited to the equipment challenge fund.

AMENDED ANALYSIS

This bill creates a steering committee which shall be responsible for directing and developing an equipment challenge grant program for vocational and technical education programs.

The committee shall focus on establishing the following 3 programs: a program for a vocational-technical resource collaborative, a program for educational administrators training initiative, and an instructional equipment needs challenge grant program.

The steering committee shall submit a report no later than October 1, of each subsequent biennium. The report shall include the committee's progress in the establishment of the 3 programs outlined and recommendations for their continued development.

This bill also establishes a legislative oversight committee to review the annual accounting report of the steering committee.

This bill establishes an equipment challenge fund and makes an appropriation to the department of postsecondary technical education's equipment challenge fund for the purposes of the program.

SENATOR DISNARD: The Senate Education committee moves ought to pass. Presently there are vocational high schools called vocational skill centers and some technical colleges. Their equipment is getting old and out of date, out moded, out modeled. What this would allow with the fiscal note of one dollar, what this would allow is for a committee to work out guidelines whereby grants could be obtained with matching, sometime in the future, state dollars to replace this equipment. However, I wish to call your attention to the amendment on page five, because it is a strong change in this bill. Under this bill as the committee reviewed it, the wealthy school districts would get wealthier and the poor school districts would get poorer, because the poorer school districts would not have the ability of the large cities to attract grants from industry. So what this bill does, is set up a fund and the committee will establish the guidelines. There will be an oversight by the legislature. So the changes in the oversight and the pool of money and guidelines.

SENATOR NELSON: Senator Disnard, I didn't quite understand what you meant about . . . I heard you mention the word cities and I wanted to know exactly what that meant, because sometimes it is confusing between rich and poor and then we talk about cities and you know that we are not getting any foundation aid down in Nashua, so I want to make sure that I understand what this is going to do?

SENATOR DISNARD: I am also from the city. What I am trying to say is, that the Berlins, the rural areas, the Claremonts, where there is lack of concentrated industry such as in this area or in your area, would have a more difficult time to obtain matching monies or grants for nonexistent industries. All that that says, is that there will be a fund established and the committee in the bill, would allocate the funding based on guidelines that they would establish.

SENATOR NELSON: We are presupposing that every city has industry that is up and running. Are these guidelines going to be weighed heavily, so that it could in fact, go against a city, i.e. Dover or Portsmouth, or Nashua?

SENATOR DISNARD: No. It would be based on need. I would assume since those communities have the vocational schools that have been operating the longest, that they would benefit more in the beginning.

SENATOR NELSON: Thank you.

Committee amendment adopted.

Referred to Finance (Rule #24).

Recess.

Senator Delahunty in the Chair.

HB 632-FN, an act relative to administrative due process hearings concerning special education disputes and establishing a committee to study alternative methods of dispute resolution for the special education of educationally disabled students. Education committee. Ought to Pass. Senator Disnard for the committee.

SENATOR DISNARD: This is a bill that is long overdue. It only relates to statutes of limitations returning to special education disabled students or educational disabled students, handicapped students, plus it sets up a committee to study alternative mechanisms for dispute resolutions. You would be surprised to hear that the Parent Advocates supported this bill, it was a good compromise. One of the parents of a handicapped child said, it puts parents rights, and protects them, in terms of time limitations. Another parent said that this has the reasonable resolution of time limits. No one opposed this, and I was just amazed from my past experience, to find out that both sides felt the need for it.

SENATOR NELSON: I was just wondering if Senator Disnard would just repeat his statement. I couldn't hear if he mentioned the study, the second half of the bill?

SENATOR DISNARD: The second half of the bill, I thought I did when I indicated when . . .

SENATOR NELSON: I didn't hear you over here, that's all.

SENATOR DISNARD: This establishes a committee, a good study committee, to review or suggest alternative mechanisms for dispute types of resolutions in relation to the education of disabled children. Once again, the parent advocates in all, agreed to the make up of the committee.

SENATOR NELSON: Senator Disnard, is there a problem presently, and that is why you have a study committee, or perhaps should I say, what is the reason for the study committee?

SENATOR DISNARD: Lack of present laws and regulations lead to this area.

SENATOR NELSON: Thank you, Senator.

Adopted.

Ordered to third reading.

HB 1222-FN-L, an act authorizing schools to modify authorized regional enrollment area (AREA) agreements. Education committee. Ought to Pass with Amendment. Senator Heath for the committee.

5672L

Amendment to HB 1222-FN-LOCAL

Amend the bill by replacing section 2 with the following:

2 Exemption Added. Amend RSA 195-A:4-a to read as follows:

195-A:4-a Exception. Notwithstanding any other provision of law or any agreement between a receiving district and a sending district, the school board of a receiving district and the school board of a sending district may mutually agree upon a showing of hardship by pupils from a sending district to exempt such pupils from any agreement requiring them to attend the receiving district's schools. A pupil exempted from such agreement would make suitable arrangements to attend school outside the receiving district. The sending district shall be liable for tuition payments to the district of actual attendance. Any exception so granted shall be for the period of one school year and shall be renewed only upon mutual agreement between the school boards concerned. **In the case of the withdrawal of accreditation by the accrediting agency of the school attended in the receiving district, and by application of the person having custody of the pupil, the board of the sending district may agree to exempt pupils from a sending district from any agreement requiring them to attend the receiving district's schools. If the sending district grants the exemption, this exemption provision shall remain in effect until the accreditation of the receiving school is reinstated. A pupil exempted under this section may complete the academic year in the school to which the pupil is assigned. The provisions of this section shall apply only to area agreements negotiated on or after the effective date of this act unless the agreement indicates otherwise.**

AMENDED ANALYSIS

This bill allows any party to an authorized regional area agreement, either at the time of the original agreement or at any subsequent modification, to specify that the agreement will cover less than 100 percent of the student population of the sending district.

This bill also allows a sending school to exempt pupils from any agreement to attend a school that loses accreditation. Any person that has custody of a child attending an unaccredited school may request an exemption from the sending agreement until the receiving schools accreditation has been reinstated. Any pupil that is exempted will be allowed to complete the academic year in the

assigned school. This provision would only apply to area agreements negotiated on or after the effective date of this act.

SENATOR HEATH: In the case of area agreements, authorized regional enrollment areas, this allows a sending district to reduce the percentage of children that they send to a receiving district, if the receiving district loses certification under the standard that is chosen for certification, a certification body such as the New England Regional Certification Group that certifies most of the schools in New Hampshire. This applies only to new agreements or renegotiated agreements. This would not apply to existing area agreements.

Committee amendment adopted.

Ordered to third reading.

Senator Disnard (Rule #42).

HB 1347-A, an act designating money for the planning and design of a regional vocational education center in Milford. Education committee. Ought to Pass. Senator Disnard for the committee.

SENATOR DISNARD: This is a bill regardless that it says A, it does not include new monies or new appropriations. It is a bill designating money for the planning and design of a regional vocational center in Milford. Those who are familiar will understand or maybe 17 or 18 years ago, the state and the state Department of Education, established 20 vocational locations for vocational high schools or vocational skill centers. I think that this is number 17 or 18 in that process. At the hearing, the state department of Education indicated, that the present authorizations for bond issues, have sufficient money in there so that new bond issues would not be required, because in these severe economic times some of the bids came in at lower prices than estimated. It is part of the overall general plan.

SENATOR NELSON: Senator Disnard, my question is very succinctly this, I noticed that it was referred from the Public Works Department and it is talking about designating money for planning and design. I was just curious how it came to go to Education as opposed to the Capital Budget committee? Would you happened to know how this is happening?

SENATOR DISNARD: I will give you an answer, and I will apologize. It was assigned to my committee as a policy committee, I assume, from the office of the President. Very honestly, I did not think that this was a Capital Budget bill, because of the lack of dollars involved, and they have always come to the Education committee at the beginning. Madam Chairman of the Capital Budget, I so apologize, but I should have realized that it was in the wrong policy committee.

SENATOR COLANTUONO: There is no amendment on this bill, is that correct?

SENATOR DISNARD: My understanding is that there is no amendment on this bill.

SENATOR COLANTUONO: So the wording authorizes the treasurer to make funds available under RSA 188:E-10 for the construction of the regional vocational centers. Can you explain to me how that law works and how money could be made available without coming back to the legislature?

SENATOR DISNARD: Without going to the statutes, I can't. I think that is the portion of the law that reads now, either \$75,000,000 or up to \$80,000,000 authorization on bond issues for the construction of vocational skill centers. But I want to emphasis because those are big numbers. Most of that money has already been spent for the other 16 or 17 vocational skills that are in the process of construction or have been built. It is in the bill that authorizes bond issues up to the amount for the construction of vocational skill centers. Senator Colantuono, that bill does not name that the first one, the Keene, or later on the Nashua one, it doesn't name by name, it just gives authorization by amount of dollars, authority to borrow.

SENATOR BASS: Mr. President, I apologize for not having been more attentive to the calendar. I didn't realize that this bill was coming up today and I rise in support of it. I would point out that the fiscal impact statement is not the correct fiscal impact statement. It is dated December 19, 1991 and that was at the time when there was an appropriation in the bill which has been removed. Apparently the funds and the expertise already exist in the department to conduct the necessary needs study and so forth to determine whether or not a facility is justified in the town of Milford. If it isn't justified, then nothing will happen. If it is justified and these needs assessment studies are done following very rigid criteria, number of pupils available, where all of the other centers are, the population and so forth, either they say yes or they say no. If they say no, there will be no further bill or no further effort. If they say yes, then a bill would be introduced and it would be referred to Senator Nelson's committee on Capital Budget where funds would be necessary. So this is not going to cost us any money, it is going to be done in house, within the department, and I urge the Senate's adoption of the committee report of ought to pass.

SENATOR NELSON: I know that it seems kind of petty to some people that I would inquire about a bill being in another committee, but if in fact we are talking about a Capital Budget and we are talk-

ing about bonding, I feel that that person who has the name that goes with the Chairman of that committee, that I should at least have some knowledge of what is happening at some point during the session, not after the fact. And I make no apologies to state that publicly. I would also remind you to look at this bill and see that it says that the "treasurer of the state may draw its warrant", it does not say after the needs assessment, it doesn't say when we are ready, it just says that "the Department of Education can authorize the expenditure of these bills." So I am terribly confused, and I might ask the Senate President if we could refer this bill to Capital Budget?

Referred to Capital Budget (Rule #24).

HB 1448, an act relative to the loyalty oath for teachers. Education committee. Ought to Pass with Amendment. Senator Humphrey for the committee.

5697L

Amendment to HB 1448

Amend the bill by replacing section 1 with the following:

1 Repeal. RSA 191:2, relative to loyalty oaths for teachers, is repealed.

AMENDED ANALYSIS

This bill repeals the law requiring loyalty oaths for teachers.

SENATOR HUMPHREY: Mr. President, the motion before us is ought to pass with amendment. The amendment is very different than the underlying proposal. The amendment proposes to strike from the existing statute that part of the law that requires teachers to take a loyalty oath. In the Education committee earlier this week, I was astonished to find out that we have such statute in New Hampshire. A little quick research reveals that it was enacted in 1949. I suppose when one considers the context of those times, one can understand at least the climate in which that law was past. No town officials in this state are required to take a loyalty test except teachers. I don't know why teachers have been singled out. I suppose the answer is that they, above all others, have greater contact with students and young minds, and are in a position to influence those minds. Still, while I haven't been a resident of New Hampshire all of my life, I don't recall even one communist cell being detected in one of our schools or even one communist teacher. This isn't 1949, this isn't the era in which nations of Europe were being swallowed up by communism and some silly fools out in Hollywood were claiming to be members of the communist party, and maybe a few in the com-

munications media. This is 1992, and this to me is an odious anachronism, and I think that we ought to just wipe it off of the books. No town officials are required to take this oath except teachers. I am surprised that it hasn't been challenged on the constitutional grounds here before, but it seems like a good time, I think, just since the matter was raised in a whole different context, just to wipe the board clean, and wipe the slate clean and get rid of this all together through repeal. I urge my colleagues to support the motion to adopt the bill with the amendment.

SENATOR MCLANE: Senator Humphrey, I am so pleased to be in agreement with you on a bill that I just had to ask you a question. Do you think the age of McCarthyism is dead?

SENATOR HUMPHREY: Well I point out that this was enacted in 1949, I think before Senator McCarthy begin his notorious rise to infamies, but nonetheless, it embodies the same mentality. I am astonished, Senator, that you haven't repealed this years ago.

SENATOR J. KING: I rise in strong support of this. Having been, in the past, a recipient of taking that oath, there was not much thought given to it by the person who was taking it and, I don't think much thought was given to it by the person who was giving it. Whereas it has only been done for the teachers, it certainly did create some good feelings among the teachers where there was a bit of a distrust that might exist there. Thank you.

SENATOR COLANTUONO: The day that my good friend, Senator McLane, agrees with Senator Humphrey, I am worried. I want to rise to oppose this and urge defeat of the amendment and passage of the original bill, which simply deals with where these oaths have to be kept. I was at the Hudson town council organizational meeting last week and each of those newly elected councilors took this oath. I believe, local officials are required to take it. In any event, I think, the law requiring the school teachers to take it is a good idea, it is the same oath that we take in our jobs representing the people for \$100 a year. These teachers are well paid public servants who have an equally important job, and to say that the teachers shouldn't be bound to uphold the constitution of the state, especially when they are teaching our young people about the constitution of our state, to me, is a foolish idea. I would urge defeat of the amendment.

SENATOR COHEN: As a current caring member of the New Hampshire Civil Liberties Union, I am proud to rise in support of Senator Humphrey on this. I am very pleased, and it is about time that we get this off of the books.

SENATOR HUMPHREY: I rise for a second time, Mr. President. I just want to calm Senator Colantuono's fears, or the fears of anyone

else who is concerned about what we are proposing here. We do not touch in any way, existing statute 191:1, which says, "entitled advocacy of subversive doctrines prohibited," which says, "no teacher shall advocate communism as political doctrine or any other doctrine which included the overthrow by force of the government of the United States or this state in any public or state approved school or in any state institution." Nobody can advocate communism, what we are proposing to do, to eliminate the part in which requires teachers alone, as town employees, to take such an oath. I feel perfectly confident, frankly, that parents and school boards will be very quick to detect anyone who is teaching or advocating a violent, unconstitutional overthrow of our government. I think that we can rest perfectly confident that parents and school boards and town officials will act if anything like that ever develops, which I think is highly unlikely in the first place.

Committee amendment adopted.

Question is on ordering to third reading.

A roll call was requested by Senator Hough.

Seconded by Senator Shaheen.

The following Senators voted Yes: Oleson, W. King, Heath, Fraser, Hough, Currier, Disnard, Blaisdell, Bass, Pressly, Nelson, McLane, Humphrey, J. King, St. Jean, Shaheen, Delahunty, Hollingworth, Cohen.

The following Senators voted No: Roberge, Colantuono, Podles.

Yeas 19

Nays 3

Ordered to third reading.

HB 1449-FN, an act relative to the cost of publishing school laws. Education committee. Ought to Pass. Senator J. King for the committee.

SENATOR J. KING: Currently the Education Department prints these copies at their expense. They print approximately 650 copies a year. This bill allows the state Board of Education to provide one copy, free to the 65 school districts, any other copies will cost \$20, whether they are for additional copies there, or anyone in the state that wants them. They will still continue to print them, but not at their expense. I think that this is one baby step in cutting some of the expenses. I ask for your vote and support of ought to pass.

Adopted.

Ordered to third reading.

HB 1451-FN, an act relative to the transportation of pupils living within a certain distance from the school to which they are assigned. Education committee. Ought to Pass. Senator Disnard for the committee.

SENATOR DISNARD: This is not a mandate. It only clarifies and changes some wording to make it easier for school districts to operate. The present law in Transportation refers to under age 14. Some school districts in the Department of Education have a problem because in some very small cases there are children in high school under the age of 14. This just changes the law to the original intent of eighth grade and under transportation, will be provided according to the law. Now during the hearing the question was asked, does it change any of the law, does it give any authorization to the Commissioner of Education that he or she would have, that they do not have now, and the answer is no. It just complies sublaws that are already in existence as well as changing the term 14 years to under grade eight. It does not involve kindergarten, because kindergartens are not mandated. However, a school district may enlarge the laws and rules regarding transportation. It does not change any mandates that are in existence, it is a permissive bill on mileage over and above what the law requires.

SENATOR ROBERGE: Senator Disnard, could you explain this large fiscal note on here then, if there is no additional cost? It does say, "the bill will increase local expenditures by \$100,000, \$350,000 in 1993", and then it increases steadily, there will be no fiscal impact on state and county expenditures, no, or on state, and it won't increase revenues, but it is going to increase expenditures, this is what it says.

SENATOR DISNARD: Senator Roberge, do you see that cross?

SENATOR ROBERGE: Yes.

SENATOR DISNARD: There is no fiscal impact. This is the House Bill as amended. I don't know what the original bill had. Under this bill there are no new costs required of school districts.

SENATOR ROBERGE: And I can read your lips?

SENATOR DISNARD: You can read my lips and quote the minutes. When I say that you can read my lips, you bet that you can read my lips.

SENATOR COLANTUONO: Senator Disnard, the analysis says that this bill repeals the law that requires local school districts not maintaining a high school to furnish reasonable transportation to an approved high school. I can't find the language in the bill. My first

question is, can you point out to me where it says that, and the second question is, why are we doing that, how are these kids going to get to their high school?

SENATOR DISNARD: You are asking, does a school district that does not maintain a high school have to be obligated to transport children at the districts expense? The answer is presently, no.

SENATOR COLANTUONO: Where is the language that does what the analysis says in the second paragraph?

SENATOR DISNARD: I didn't write the analysis. I am quite sure that the analysis refers to the original bill. All that this bill does is, refer to what is here. I am not trying to hedge.

SENATOR SHAHEEN: Senator Disnard, is it possible that section three refers to, is the language that Senator Colantuono may be looking for?

SENATOR DISNARD: 189:7, pupils under 14 years of age, the district shall furnish transportation as provided under section such and such, to all people under the age of 14 and grades above the eighth grade. In districts not maintaining a high school in which the school board has neglected or refused to furnish instruction in the schools of the district. It goes on to say that the districts shall furnish to such pupils, reasonable transportation to an improved school, but it does not say that it must be at the districts expense. In my area, the school district of Cornish and the school district of Unity, they don't supply transportation, they may, but they do not. So I have to assume the law does not require transportation to another school district, unless the people so approve.

SENATOR SHAHEEN: So that would then repeal that language?

MOTION TO RECOMMIT

Senator Roberge moved to recommit HB 1451-FN an act relative to the transportation of pupils living within a certain distance from the school to which they are assigned.

Adopted.

HB 1451-FN is recommitted to the Education committee.

HB 1130, an act relative to ejecting persons from racetracks whose presence is inconsistent with proper conduct of a race meet and relative to unclaimed pari-mutuel pool tickets. Finance committee. Ought to Pass with Amendment. Senator Blaisdell for the committee.

5702L

Amendment to HB 1130

Amend the title of the bill by replacing it with the following:

AN ACT

relative to ejecting persons from racetracks whose presence is inconsistent with proper conduct of a race meet, relative to unclaimed pari-mutuel pool tickets and extending the existing capital improvement and promotional fund for greyhound racetracks.

Amend the bill by replacing all after section 2 with the following:

3 Change From 1993 to 1998. Amend the following RSA provisions by replacing "1993" with "1998": RSA 284:22, IV; RSA 284:23, II-a.

4 Change From 1993 to 1998. Amend 1988, 291:5, I as amended by 1989, 219:7 by replacing "1993" with "1998".

5 Change From 1993 to 1998. Amend 1989, 219:9, I by replacing "1993" with "1998".

6 Effective Date.

I. Sections 3-5 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect 60 days after its passage.

AMENDED ANALYSIS

Current law allows the licensee of a race track to refuse to admit, or eject, any person whose conduct is inconsistent with the orderly and proper conduct of the race meet. This bill expands this provision to allow such action by the licensee when a person's presence is inconsistent with the orderly and proper conduct of the race meet. This bill clarifies the definition of race to include both live and simulcast racing and limits the time that a pari-mutuel ticket for simulcast or live racing can be redeemed to eleven months.

This bill also extends the existing capital improvement and promotional fund for greyhound racetracks that averaged less than \$125,000 per performance in the immediately preceding calendar year from June 30, 1993, to June 30, 1998.

SENATOR BLAISDELL: Yes, Mr. President and members of the Senate, this was a policy bill that was sent to us by Way and Means. Senate Finance agrees with the policy the way that it was sent to us. We did add an amendment on the capital improvement extension time. I spoke to Representative Kelly in the House on regulated revenues, and he had no problem with it. I spoke to Senator McLane on the Senate Ways and Means committee, and I also spoke to Rep-

representative Gross who really was instrumental in putting together the whole Capital Improvement Fund a few years ago. This bill has nothing to do with any loss of revenue to the state of New Hampshire, it just extends the time on capital improvements. I think that you will find that this money comes out of the better . . . that we felt that at that time, many years ago, that is the way that the money should come to the people that use the track and not out of the revenues from the state of New Hampshire. Senate Finance asks for your consideration and asks you to pass this.

SENATOR COLANTUONO: Senator Blaisdell, just for the record, as we have discussed before, could you state why this provision was put in as an amendment in this process, since it doesn't become effective until June 30, 1993, rather than just waiting until next year and putting a regular bill in and having public hearings and so forth?

SENATOR BLAISDELL: Well the reason that we asked for this, this only effects the Hinsdale track and also the Belmont track. This has nothing to do with Rockingham or Seabrook. The reason that they asked for that was because they want to do the work all at one time, rather than waiting to do it piecemeal. This is the way that you get the Capital Improvement Funds, piecemeal. They are going to go out and borrow the money, pay the interest and do it that way. That is why they asked for it. We think that it is the right way to go.

SENATOR HEATH: Senator Blaisdell, why didn't the people that wanted to do this bring in a bill like every other citizen does when they need some act of the legislature?

SENATOR BLAISDELL: Well I think that this isn't unusual for something like this, they just felt that they wanted the extended time, Senator Heath, this is done all of the time. Rather than just put in a whole bill for something like that, it is easily explained rather then spend \$700, it is cheaper to put it on just as an amendment.

SENATOR HEATH: Senator Blaisdell, you know as well as I do, that for years we have been accused for doing things that were non germane and slipping things through at the last minute, and don't you think that this has that odious appearance, where you have a policy bill that has nothing to do with this, and then you slap a fairly consequential amendment on it that would be the subject of a full bill in itself, and have a public hearing on it?

SENATOR BLAISDELL: What was the word that you used, odious?

SENATOR HEATH: Odious. It stinks.

SENATOR BLAISDELL: Is that what you meant?

SENATOR HEATH: That is what I meant and that is what I mean.

SENATOR BLAISDELL: Well, I think that you are wrong, Senator, of course, or otherwise I certainly would have never brought anything that is very dubious or odious into this Senate Chamber.

SENATOR HEATH: I didn't know that you did this.

SENATOR BLAISDELL: I did this, yes, in Senate Finance. It was my amendment in Senate Finance and I got concurrence from Senate Finance.

Committee amendment adopted.

Ordered to third reading.

Senator Heath in opposition to HB 1130.

HB 317-FN, an act relative to a minimum service retirement allowance for group II members and making an appropriation for administrative costs. Insurance committee. Ought to Pass with Amendment. Senator Bass for the committee.

5732L

Amendment to HB 317-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to a minimum service retirement allowance for group II members and making an appropriation for administrative costs,
and relative to extending the time for buying back
creditable service by legislative and
constitutional officers.

Amend the bill by replacing all after section 3 with the following:

4 Appropriation. The sum of \$10,000 is appropriated for the fiscal year ending June 30, 1993, from the New Hampshire retirement system administrative account for the administrative costs related to the purposes of sections 1-3 of this act.

5 Extending Date for Buying Back Creditable Service. Amend RSA 14:27-c, IV to read as follows:

IV. Eligible legislative and constitutional officers in service on the effective date of this section shall exercise their option to buy back service credit under this section at any time prior to but no later than January 1, [1987] **1993**.

6 Effective Date.

I. Sections 1-4 of this act shall take effect July 1, 1992.

II. The remainder of this act shall take effect upon its passage.

AMENDED ANALYSIS

This bill permits any group II member who has retired on a full service retirement allowance to receive a minimum service retirement allowance of \$5,200. The provisions of the bill apply to group II members who retired prior to or subsequent to July 1, 1992.

The bill provides that the minimum service retirement allowance shall be reduced by an amount which equals any other retirement benefits which the group II member receives.

The bill makes an appropriation from the New Hampshire retirement system administrative account for the administrative costs associated with the minimum service retirement allowance.

The bill also extends the date by which legislative and constitutional officers must exercise their right to buy back creditable service for retirement purposes from January 1, 1987, to January 1, 1993.

SENATOR BASS: Mr. President, this bill establishes a minimum service retirement benefit of \$5,200 for group II members. It however, requires that other retirement benefits be offset against this benefit. So as a result, it will only affect, roughly, 25 or 30 individuals at a total cost to the special account of roughly \$500,000. The amendment which deals with legislative and constitutional officers buying into the Retirement System is an amendment of a somewhat different nature. Upon further reflection, the committee has decided that this amendment needs to be considered in a separate bill and separate issue and so forth, so the committee recommends that the original motion of ought to pass be adopted by the Senate and that the amendment be defeated.

Committee amendment failed.

Ordered to third reading.

HB 321-FN, an act relative to small employer insurance. Insurance committee. Ought to Pass with Amendment. Senator Hollingworth for the committee.

5725L

Amendment to HB 321-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to small employer insurance and creating the position of life, accident and health actuary within the insurance department.

Amend the bill by replacing all after the enacting clause with the following:

1 Purpose and Intent.

I. The legislature finds that a significant number of New Hampshire residents do not have health insurance because they or their employers or both cannot afford to pay the premiums or because they are denied insurance due to their current or past medical history or condition or their occupation.

II. Approximately 3/4 of the uninsured Americans are workers and their dependents. Many of the uninsured work for small firms or are self-employed.

III. These small employers are facing increased barriers to obtain or retain affordable coverage for their employees.

IV. The legislature believes that wherever possible private initiatives should be used to provide access to health insurance and that it is the legislature's responsibility to create the statutory and regulatory environment to enable this to work.

2 New Chapter; Small Employer Insurance. Amend RSA by inserting after chapter 420-D the following new chapter:

CHAPTER 420-E

SMALL EMPLOYER INSURANCE

420-E:1 Definitions. In this chapter

I. "Actuarial certification" means a written statement by a member of the American Academy of Actuaries that a small employer carrier is in compliance with the provisions of this chapter, based upon the person's examination, including a review of the appropriate records and of the actuarial assumptions and methods utilized by the carrier in establishing premium rates for applicable health insurance plans.

II. "Base premium rate" means, as to a rating period, the lowest premium rate charged or which could have been charged under a rating system by the small employer carrier to small employers with similar case characteristics for health insurance plans with the same or similar coverage.

III. "Carrier" means any person who provides health insurance in this state. For the purposes of this chapter, carrier includes a licensed insurance company, a prepaid hospital or medical service plan, a health maintenance organization, or any other person providing a plan of health insurance subject to state insurance regulation.

IV. "Case characteristics" mean demographic or other relevant characteristics of a small employer, as determined by a small employer carrier, which are considered by the carrier in the determination of premium rates for the small employer. Claim experience, health status and duration of coverage since issue are not case characteristics for the purposes of this chapter.

V. "Commissioner" means the commissioner of insurance.

VI. "Department" means the department of insurance.

VII. "Health insurance plan" or "plan" means any hospital or medical expense incurred policy or certificate, hospital or medical service plan contract, or health maintenance organization subscriber contract. Health insurance plan does not include accident-only, credit, dental or disability income insurance; coverage issued as a supplement to liability insurance; workers' compensation or similar insurance; or automobile medical-payment insurance.

VIII. "Index rate" means the arithmetic average of the applicable base premium rate and the corresponding highest premium rate for small employers with similar case characteristics.

IX. "New business premium rate" means, as to a rating period, the premium rate charged or offered by the small employer carrier to small employers with similar case characteristics for newly issued health insurance plans with the same or similar coverage.

X. "Rating period" means the calendar period for which premium rates established by a small employer carrier are assumed to be in effect, as determined by the small employer carrier.

XI. "Small employer" means a business or organization with between 2 and 50 employees, inclusive.

XII. "Small employer carrier" means any carrier which offers health insurance plans covering the employees of a small employer.

420-E:2 Health Insurance Plans Subject to this Chapter.

I. Except as provided in paragraph II, the provisions of this chapter apply to any health insurance plan which provides coverage to two or more employees of a small employer.

II. The provisions of this chapter shall not apply to individual health insurance policies which are subject to policy form and premium rate approval.

420-E:3 Restrictions Relating to Premium Rates.

I. Premium rates for health insurance plans subject to this chapter shall be subject to the following provisions:

(a) The premium rates charged during a rating period to small employers with similar case characteristics for the same or similar coverage, or the rates which could be charged to such employers under the rating system, shall not vary from the index rate by more than 30 percent of the index rate.

(b) The percentage increase in the premium rate charged to a small employer for a new rating period may not exceed the sum of the following:

(1) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. If the small employer carrier is not issuing new policies, the carrier shall use the percentage change in the base premium rate.

(2) An adjustment, not to exceed 15 percent annually and adjusted pro rata for rating periods of less than one year, due to the claim experience, health status or duration of coverage of the employees or dependents of the small employer as determined from the carrier's rate manual.

(3) Any adjustment due to change in coverage or change in the case characteristics of the small employer as determined from the carrier's rate manual.

(c) In the case of health insurance plans issued prior to January 1, 1993, a premium rate for a rating period may exceed the ranges described in paragraphs I and II until January 1, 1998. In such case, the percentage increase in the premium rate charged to a small employer for a new rating period may not exceed the sum of the following:

(1) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. If the small employer carrier is not issuing new policies, the carrier shall use the percentage change in the base premium rate.

(2) Any adjustment due to change in coverage or change in the case characteristics of the small employer as determined from the carrier's rate manual.

II. Nothing in this section is intended to affect the use by a small employer carrier of legitimate rating factors other than claim experience, health status or duration of coverage in the determination of premium rates. Small employer carriers shall apply rating factors, including case characteristics, consistently with respect to all small employers.

420-E:4 Provisions on Renewability of Coverage.

I. Except as provided in paragraph II, a health insurance plan subject to this chapter shall be renewable to all eligible employee and dependents at the option of the small employer, except for the following reasons.

(a) Nonpayment of required premiums.

(b) Fraud or misrepresentation of the small employer, or with respect to coverage of an insured individual, fraud or misrepresentation by the insured individual or such individual's representative.

(c) Noncompliance with plan provisions.

(d) The number of individuals covered under the plan is less than the number or percentage of eligible individuals required by percentage requirements under the plan.

(e) The small employer is no longer actively engaged in the business in which it was engaged on the effective date of the plan.

II. A small employer carrier may cease to renew all plans issued to small employers. The carrier shall provide notice to all affected health insurance plans and to the commissioner in each state in which an affected insured individual is known to reside at least 90 days prior to termination of coverage. A carrier which exercises its right to cease to renew all small employer plans shall not offer health insurance plans to small employers for a period of 5 years after the nonrenewal of the plans without prior approval of the commissioner.

420-E:5 Disclosure of Rating Practices and Renewability Provisions. Each small employer carrier shall make reasonable disclosure in solicitation and sales materials provided to small employers of the following:

I. The extent to which premium rates for a specific small employer are established or adjusted due to the claim experience, health status or duration of coverage of the employees or dependents of the small employer.

II. The provisions concerning the carrier's right to change premium rates and the factors, including case characteristics, which affect changes in premium rates.

III. The provisions relating to renewability of coverage.

420-E:6 Maintenance of Records.

I. Each small employer carrier shall maintain at its principal place of business a complete and detailed description of its rating practices and renewal underwriting practices, including information and documentation which demonstrate that its rating methods and practices are based upon commonly accepted actuarial assumptions and are in accordance with sound actuarial principles.

II. Each small employer carrier shall file each March 1, with the commissioner, an actuarial certification stating that the carrier is in compliance with this section and that the rating methods of the carrier are actually sound. Health maintenance organizations shall file such information as required by the commissioner. A copy of such certification shall be retained by the carrier at its principal place of business.

III. A small employer carrier shall make the information and documentation described in paragraph I available to the commissioner upon request. The information shall be considered proprietary and trade secret information and shall not be subject to

disclosure by the commissioner to persons outside of the department except as agreed to by the carrier or as ordered by a court of competent jurisdiction.

420-E:7 Filing of Rates. No policy or contract of insurance or any certificate under such policy or contract shall be issued under this chapter until the premium rates have been filed with the insurance commissioner nor until the expiration of 30 days thereafter unless the commissioner shall sooner give his written approval thereof.

420-E:8 Discretion of the Commissioner. The commissioner may suspend all or any part of RSA 420-E:3 as to the premium rates applicable to one or more small employers for one or more rating periods upon a filing by the small employer carrier and a finding by the commissioner that either the suspension is reasonable in light of the financial condition of the carrier or that the suspension would enhance the efficiency and fairness of the marketplace for small employer health insurance.

420-E:9 Rulemaking. The commissioner shall adopt rules, under RSA 541-A, necessary to the proper administration of this chapter.

420-E:10 Applicability. This chapter shall apply to each health insurance plan for a small employer that is delivered, issued for delivery, renewed, or continued in this state on or after January 1, 1993. The date a plan is continued shall be the first rating period which begins after January 1, 1993.

3 New Paragraph; Appointment of Life, Accident and Health Actuary. Amend RSA 400-A:6 by inserting after paragraph III-c the following new paragraph:

III-d. There shall be a life, accident and health actuary, who shall be appointed by the commissioner of insurance. He shall serve at the pleasure of the commissioner during good behavior. The actuary shall perform such duties and exercise such powers of the commissioner, pursuant to this chapter, as the commissioner may authorize.

4 Adding Reference. Amend RSA 400-A:8, I and II to read as follows:

I. COMPENSATION. The salary of the commissioner, deputy commissioner, assistant commissioner, director of examinations, actuary, **life, accident and health actuary**, and assistants to the commissioner shall be as prescribed in RSA 94:1-a.

II. EXPENSES. The commissioner, deputy commissioner, assistant commissioner, director of examinations, actuary, **life, accident and health actuary**, and the assistants to the commissioner shall be allowed their traveling expenses while engaged in the performance of their duties.

5 Salary of Life, Accident and Health Actuary. Amend RSA 94:1-a, I by inserting in group P the following:

Life, accident and health actuary, insurance department.

6 Appropriation. The sum of \$82,459 for the fiscal year ending June 30, 1993, is hereby appropriated to the insurance department for the purposes of sections 3-5 of this act. The department shall reimburse the state treasurer for appropriations made pursuant to this section. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

7 Effective Date.

I. Sections 3-6 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect January 1, 1993.

AMENDED ANALYSIS

This bill regulates health insurance costs to small employers and their employees by placing certain restrictions on premium rates chargeable to small employers.

This bill also creates the position of life, accident and health actuary within the insurance department.

SENATOR HOLLINGWORTH: HB 321 is the fine work of the House Commerce committee and their study committee that has been working very hard over the last few years. It was originally submitted as a model bill and suggested by the National Association of Insurance Commissioners (NAIC). This group was comprised of insurance commissioners from around the country and each commissioner represents their state. The commissioners suggested these different types of legislation, and this was one of the packages that came through to us. The study committee found that 2/3 of the uninsured in New Hampshire are tied to the workplace, and the majority of them work for small firms, and/or are self-employed. They also found that they are unique barriers to obtaining and retaining health insurance for small employers. The amended version of the bill takes all small employers and treats them as one group and one class. The original version of the bill had three separate classes of rate bans opposed to the one that this amended version has. This change was made at the suggestion of Chubb and with the agreement of the other insurance agencies. Since it would be easier and less costly to administrate as the other three classes would have been. Both the original version and the amended version requires carriers who wish to write the small employer market to treat all small employers the same for rate purposes. It also places restrictions on premium rates so that the rates cannot increase more than 30 percent from the index rate with 15 percent limited per year. A carrier that no longer wishes to write in the small employer market, may leave the market within 90 days notice to the Insurance Commissioner; but once they leave the market, they cannot return for a period of five years. Both the original and the amended version re-

quire certain disclosures to the small employer, such as how rates are determined, and how rate changes occur, and provisions related to the renewable of coverage. In addition, the carriers are required to file their rate methods and rates with the Insurance Department which is currently not required. The Insurance Department has 30 days within which they can disapprove of the rates or they take effect. This is now a new position for the Insurance Department to carry out in this chapter. I hope that you will support us in the ought to pass with amendment version. We are very proud of the work that the House committee did.

SENATOR ROBERGE: Senator Hollingworth, does this require all small businesses to offer health insurance?

SENATOR HOLLINGWORTH: I don't think that it requires all of them. I am trying to remember how the language went. I think that it requires them up to a period of time. I will call a recess and then I will try and find it. Okay?

Recess.

Out of recess.

SENATOR HOLLINGWORTH: Senator Roberge, I think this addresses primarily what the carriers will do and not necessarily what the employer will do, but I am afraid that I don't have my notes on it with me here and I am not exactly sure. But I believe that if you look at the bill, I think, that is what it does.

SENATOR HUMPHREY: Well the Senator, I think, said that this was based on a model bill. Who supplied the model?

SENATOR HOLLINGWORTH: The model bill was supplied by the Insurance Commissioners. It was a national group of Insurance Commissioners from around the country. It had the support of all the Insurance Commissioners. There was no one, I believe, that spoke in opposition to the bill, it had the unanimous support of the committee. It was worked on quite hard by both the insurance companies and the committee, it was an ongoing group that worked all summer.

SENATOR HUMPHREY: The Senator is saying that the insurance companies testified in favor of the bill?

SENATOR HOLLINGWORTH: Yes, they did.

Committee amendment adopted.

Ordered to third reading.

HB 411, an act relative to discrimination in the issuance of health insurance policies and relative to access to group plans. Insurance committee. Ought to Pass with Amendment. Senator Nelson for the committee.

5724L

Amendment to HB 411

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraphs; Non-Discrimination in Group or Blanket Policy Issuance. Amend RSA 415:18 by inserting after paragraph XI the following new paragraphs:

XII. No insurer shall, when issuing or renewing a policy or contract of insurance or any certificate under such policy or contract covered by this chapter, deny coverage or limit coverage to any resident of this state on the basis of health risk or condition except that a waiting period consistent with insurance department rules may be imposed for pre-existing medical conditions. If an insurer accepts an application for group coverage, such acceptance shall be subject to the following:

(a) If the group has coverage in effect through another plan, the insurer shall accept all persons covered under the existing plan. If the group does not have coverage in effect through another plan, the insurer shall accept all persons for which the group seeks coverage.

(b) Once a group policy has been issued, any person becoming eligible for coverage shall become covered by enrolling within 31 days after first becoming eligible. Any person so enrolling shall not be required to submit evidence of insurability based on medical conditions. If a person does not enroll at this time, he is a late enrollee.

(c) Once a group policy has been issued, the insurer shall provide the group with an annual open enrollment period for late enrollees. During the open enrollment period, any late enrollee shall be permitted to enroll without submitting any evidence of insurability based on medical conditions. The pre-existing condition provisions shall apply 18 months from the date of enrollment for late enrollees, only. "Late enrollee" means an eligible employee or dependent who requests enrollment in a health insurance plan of a small employer following the initial enrollment period provided under the terms of the plan, provided that the initial enrollment period shall be a period of at least 30 days. However, an eligible employee or dependent shall not be considered a late enrollee if the individual:

(1) Was covered under a public or private health insurance or other health benefit arrangement at the time the individual was eligible to enroll; and

(2) Has lost coverage under a public or private health insurance or other health benefit arrangement as a result of termination of employment or eligibility, the termination of the other plan's coverage, death of a spouse, or divorce; and

(3) Requests enrollment within 30 days after termination of coverage provided under a public or private health insurance or other health benefit arrangement;

(i) The individual is employed by an employer which offers multiple health benefit plans and the individual elects a different plan during an open enrollment period; or

(ii) A court has ordered coverage to be provided for a spouse or minor child under a covered employee's health benefit plan and request for enrollment is made within 30 days after issuance of such court order.

XIII. An insurer issuing policies of group insurance shall allocate the costs associated with maternity and childbirth over both males and females covered by its entire block of business in this state. In cases in which, because of the amount written in the state, allocation to an entire block of business needs to occur, the carrier may apply for a waiver from the insurance commissioner.

2 New Paragraphs; Non-Discrimination by Health Service Corporations. Amend RSA 420-A:7 by inserting after paragraph VII the following new paragraphs:

VIII. No health service corporation shall, when issuing or renewing a policy or contract of insurance or any certificate under such policy or contract covered by this chapter, deny coverage or limit coverage to any resident of this state on the basis of health risk or condition except that a waiting period consistent with insurance department rules may be imposed for pre-existing medical conditions. If a health service corporation accepts an application for group coverage, such acceptance shall be subject to the following:

(a) If the group has coverage in effect through another plan, the health service corporation shall accept all persons covered under the existing plan. If the group does not have coverage in effect through another plan, the health service corporation shall accept all persons for which the group seeks coverage.

(b) Once a group policy has been issued, any person becoming eligible for coverage shall become covered by enrolling within 31 days after first becoming eligible. Any person so enrolling shall not be required to submit evidence of insurability based on medical conditions. If a person does not enroll at this time, he is a late enrollee.

(c) Once a group policy has been issued, the health service corporation shall provide the group with an annual open enrollment period for late enrollees. During the open enrollment period, any late enrollee shall be permitted to enroll without submitting any

evidence of insurability based on medical conditions. The pre-existing condition provisions shall apply 18 months from the date of enrollment for late enrollees, as defined in RSA 415:18, XII(c), only.

IX. An insurer issuing policies of group insurance shall allocate the costs associated with maternity and childbirth over both males and females covered by its entire block of business in this state. In cases in which, because of the amount written in the state, allocation to an entire block of business needs to occur, the carrier may apply for a waiver from the insurance commissioner.

3 New Paragraphs; Non-Discrimination by Health Maintenance Organizations. Amend RSA 420-B:12 by inserting after paragraph IV the following new paragraphs:

V. No health maintenance organization shall, when issuing or renewing a policy or contract of insurance or any certificate under such policy or contract covered by this chapter, deny coverage or limit coverage to any resident of this state on the basis of health risk or condition except that a waiting period consistent with insurance department rules may be imposed for pre-existing medical conditions. If a health maintenance organization accepts an application for group coverage, such acceptance shall be subject to the following:

(a) If the group has coverage in effect through another plan, the health maintenance organization shall accept all persons covered under the existing plan. If the group does not have coverage in effect through another plan, the health maintenance organization shall accept all persons for which the group seeks coverage.

(b) Once a group policy has been issued, any person becoming eligible for coverage shall become covered by enrolling within 31 days after first becoming eligible. Any person so enrolling shall not be required to submit evidence of insurability based on medical conditions. If a person does not enroll at this time, he is a late enrollee.

(c) Once a group policy has been issued, the health maintenance organization shall provide the group with an annual open enrollment period for late enrollees. During the open enrollment period, any late enrollee shall be permitted to enroll without submitting any evidence of insurability based on medical conditions. The pre-existing condition provisions shall apply 18 months from the date of enrollment for late enrollees, as defined in RSA 415:18, XII(c), only.

VI. An insurer issuing policies of group insurance shall allocate the costs associated with maternity and childbirth over both males and females covered by its entire block of business in this state. In cases in which, because of the amount written in the state, allocation to an entire block of business needs to occur, the carrier may apply for a waiver from the insurance commissioner.

4 New Paragraphs; Non-Discrimination through Preferred Provider Agreements. Amend RSA 420-C:4 by inserting after paragraph VI the following new paragraphs:

VII. No preferred provider shall, when issuing or renewing a policy or contract of insurance or any certificate under such policy or contract covered by this chapter, deny coverage or limit coverage to any resident of this state on the basis of health risk or condition except that a waiting period consistent with insurance department rules may be imposed for pre-existing medical conditions. If a preferred provider accepts an application for group coverage, such acceptance shall be subject to the following:

(a) If the group has coverage in effect through another plan, the preferred provider shall accept all persons covered under the existing plan. If the group does not have coverage in effect through another plan, the preferred provider shall accept all persons for which the group seeks coverage.

(b) Once a group policy has been issued, any person becoming eligible for coverage shall become covered by enrolling within 31 days after first becoming eligible. Any person so enrolling shall not be required to submit evidence of insurability based on medical conditions. If a person does not enroll at this time, he is a late enrollee.

(c) Once a group policy has been issued, the preferred provider shall provide the group with an annual open enrollment period for late enrollees. During the open enrollment period, any late enrollee shall be permitted to enroll without submitting any evidence of insurability based on medical conditions. The pre-existing condition provisions shall apply 18 months from the date of enrollment for late enrollees, as defined in RSA 415:18, XII(c), only.

VIII. An insurer issuing policies of group insurance shall allocate the costs associated with maternity and childbirth over both males and females covered by its entire block of business in this state. In cases in which, because of the amount written in the state, allocation to an entire block of business needs to occur, the carrier may apply for a waiver from the insurance commissioner.

5 Access to Group Plan Extended. Amend RSA 415:18, VII(g)(1) to read as follows:

(g)(1) Whenever any individual **who has been employed for at least 6 months and** who is a member of any group hospital, surgical, medical insurance plan or health maintenance organization becomes ineligible for continued participation in such plan for any reason including death, **except dismissal for gross misconduct**, the benefits of such plan shall be available at the same group rate to the individual, the surviving spouse and the dependents covered by the group plan, for an extension period of [39 weeks]:

(A) 18 months; or

(B) 29 months in the case of an individual who is determined, under Title II or XVI of the Social Security Act to have been disabled at the time such individual becomes ineligible for continued participation in the plan; or

(C) 36 months in the case of:

(i) the death of the covered employee;

(ii) the divorce or the legal separation of the covered employee from the employee's spouse;

(iii) the covered employee's becoming entitled to benefits under Title XVIII of the Social Security Act; or

(iv) a dependent child ceasing to be a dependent child or until such member, surviving spouse or dependent becomes eligible for benefits under another group plan, whichever occurs first. The individual, surviving spouse or dependent shall elect to continue the participation in the group plan [within 30 days after the member becomes ineligible to participate] **according to rules adopted by the commissioner under RSA 541-A.** The member, surviving spouse or dependent shall be responsible for payment of premiums **which may include an administrative fee not to exceed 2 percent of the monthly premium** to the employer or policyholder throughout the extension period. Upon termination of the extension period, the member, surviving spouse or dependent shall be entitled to exercise any option which is provided in the group plan to elect a converted policy. After timely receipt of the premium payment from the individual or surviving spouse, if the employer fails to make payments to the insurer or hospital or medical service corporation or health maintenance organization, with the result that coverage is terminated, the employer shall be liable for benefits to the same extent as the insurer or hospital or medical service corporation would have been liable if coverage had not been terminated.

6 Notice of the Right to Continue Group Coverage. Amend RSA 415:18, VII(g)(4) to read as follows:

(4) Whenever any group hospital, surgical, medical insurance plan, or health maintenance organization coverage terminates for any reason, **unless such member, surviving spouse or dependent is, at the termination date, enrolled in the group plan pursuant to RSA 415:18, VII(g)(1),** the benefits of such plan shall be available at the same group rate to the individual, the surviving spouse, and the dependents covered by the group plan, for an extension period of 39 weeks, or until such member, surviving spouse, or dependent becomes eligible for benefits under another group plan, whichever occurs first. **Any such member, surviving spouse or dependent who is enrolled in the group plan pursuant to RSA 415:18, VII(g)(1) upon the termination date shall have the benefits of such plan available to him at the same group rate for an extension period of**

39 weeks, or an extension period to the date the extension provided under RSA 514:18(g)(1) would have expired had the plan not been terminated, or until such member, surviving spouse or dependent becomes eligible for benefits under another group plan, whichever occurs first. Written notice of the right to continue such group coverage shall be given by the insurance company in each master policy, certificate, and group policy. The insurance company shall furnish each employer or group an adequate supply of attachments for each master policy, certificate, or group policy in effect. An individual, surviving spouse, or dependent electing continuation of coverage under this subparagraph shall provide the insurance company written notice of election together with the first monthly premium contribution within 31 days from the date coverage would otherwise terminate. The group rate shall be paid by the individual, surviving spouse, or dependent directly to the insurance company. The premium rate shall be that required for the coverage being continued and shall not exceed the applicable group rate, but a reasonable administrative fee not [exceeding \$3 per month] **to exceed 2 percent of the monthly premium** may be charged to offset billing and payment costs. Upon termination of the extension period, the member, surviving spouse, or dependent shall be entitled to exercise any option which is or was provided in the group plan to elect a converted policy. If a person or member becomes entitled to the 39-week extension period under this subparagraph and if such person or member has not been given notice of the termination of the group plan 31 days from the date of termination of the group coverage, then the person or member shall have an additional period within which to elect the 39-week extension period. This additional period shall expire 15 days after the person or member shall have been given said notice, but in no event shall the additional period extend beyond 6 months after the expiration of the original 31-day period. Written notice presented to the person or member or mailed by the policyholder to the last known address of the person or member as furnished by the policyholder shall constitute the giving of notice for the purpose of this subparagraph. If an additional period is allowed the person or member for election of the 39-week extension period as provided in this subparagraph, and if written notice of election accompanied by the first monthly premium and any monthly premiums which may be overdue, if any, is made after the expiration of the original 31-day period, but within the additional period allowed an employee or member in accordance with this subparagraph, the effective date of the extension period shall be the date of termination from the group. In no event shall a person or member entitled to such extension period be responsible for premiums accrued and unpaid prior to the termination or cancellation of the coverage.

7 Effective Date. This act shall take effect January 1, 1993.

SENATOR NELSON: Let me begin by referring you to page 12 of the amendment. The amended bill has three parts. Number one, it bans the practice referred to as 'cherry picking' in which an insurer can take certain members of a group, but not all. Under this amended bill an insurer would have to take all members of a group. It requires the insurer to take new hires upon their eligibility for the health benefit and has a mandatory open enrollment period. It defines a late enrollee and requires an 18 month waiting period for preexisting conditions. I would refer you to page 14 if you want to look at what I just explained, number five. Number two, the cost associated with maternity care and childbirth, must be equally divided among men and women. Currently those costs are assigned to women which makes their insurance premium cost higher. Employers who have more women of childbearing age in their work force, pay a higher amount than if the work force was all male. If an insurer has insufficient numbers to spread over the base in New Hampshire, they may apply to the Insurance Commissioner for a waiver. Number three, this portion of the amended bill was originally contained in HB 767 which was sent back to the committee from the Senate. Currently under state law an employer is required to offer employees who are leaving their employment, 39 weeks or 9.75 months of health insurance coverage at the group rate, plus an administrative fee. The employee must pay the full cost of this coverage, plus the administrative fee which is currently \$3 per month. Premiums must be submitted to the former employer no longer than five days prior to when the employer must pay the premium. If the premium is not received by this deadline, the former employees insurance may be canceled. Those employers who fall under the federal 'cobra' guidelines must provide 18, 29 and 36 months of continued coverage. Since many individuals are losing their jobs or going to jobs without benefits, this allows individuals to purchase continued health insurance at a group rate. The goal is to keep as many people insured as possible. The study committee voted to make the states 39 week time frame consistent with the federal time frame. That is also on page 14 under five, access to group plan, extended in detail if you want to look at it. In order to be eligible, the individual must have been employed for at least six months and would not be eligible for continued coverage if he or she was dismissed for gross misconduct. If the former employee does not pay the required premium and administrative fee, their coverage can be terminated. The committee has sent a letter to the Insurance Department asking that their rule be changed to allow employers to collect the premium 30 days prior to the date that it must be submit-

ted. This allows time for checks to clear and a reminder cancellation notice to be mailed, should the employer choose to do so. These three areas begin to address some of the problems identified as part of the work done by the committee.

SENATOR HUMPHREY: Senator Nelson, are there any provisions in here, I can't seem to find them and there isn't time to go through these with a fine-tooth comb, since the bill is aimed at minimizing discrimination? Is there anything in here as it relates to the expenses of neonatal care that would prevent discrimination against adopted children as opposed to the natural children of a persons coverage?

SENATOR NELSON: Good question. I don't think that there is anything against it, but I don't know that there is anything for it. I would be happy to check that to make sure. The issue was not raised, so I commend you for the question.

SENATOR HUMPHREY: Well perhaps I should have been alerted sooner. It is important not only to those who might adopt children, but it is also important to think as a matter of policy statement by this body that such discrimination be unlawful. I don't know frankly, if it exists in this state, but I know that it does in some states, and I think that we should insure that it cannot here. I wonder if we might be able to put this aside for just a bit while we research that question and perhaps draft an amendment.

SENATOR NELSON: May I refer you to page 14. Senator Fraser just pointed out that perhaps this might answer part of your question. I am talking about 5-g and then down to IV, about a dependent child. You weren't asking that, though?

SENATOR HUMPHREY: I am sorry, I don't understand that.

SENATOR NELSON: Mr. President, we would be happy to have a recess and just get an answer on the adopted child.

Recess.

Out of recess.

Senator W. King moved to have HB 411 an act relative to discrimination in the issuance of health insurance policies and relative to access to group plans laid on the table.

Adopted.

LAID ON THE TABLE

HB 411 an act relative to discrimination in the issuance of health insurance policies and relative to access to group plans is laid on the table.

HB 504-FN, an act requiring licensure of medical utilization review entities. Insurance committee. Ought to Pass with Amendment. Senator Bass for the committee.

5726L

Amendment to HB 504-FN

Amend RSA 420-E:1, IV as inserted by section 2 of the bill by replacing it with the following:

IV. "Utilization review" means a system for reviewing the appropriate and efficient allocation of hospital, medical or other health care services given to a patient or group of patients as to necessity, for the purpose of recommending or determining whether such services should be covered or provided by an insurer, nonprofit service organization, third-party administrator or employer. The terms include those programs or processes whether they apply prospectively or retrospectively to medical services. Utilization review services include, but are not limited to, the following: second opinion programs; pre hospital admission certification; pre inpatient service eligibility certification; and concurrent hospital review to determine appropriate length of stay. Utilization review shall not include claims review or decisions.

SENATOR BASS: Mr. President, this bill comes about as a result of a study committee which worked last summer, created as a result of a bill introduced by Senator Blaisdell last year. This bill essentially establishes a licensure procedure for utilization review entities. It has been agreed to by both the medical profession as well as the insurance industry. The amendment simply redefines "utilization review entity". The committee urges your adoption of ought to pass as amended.

Committee amendment adopted.

Ordered to third reading.

HB 1175, an act creating a committee to study medical liability insurance in New Hampshire. Insurance committee. Ought to Pass with Amendment. Senator Nelson for the committee.

5730L

Amendment to HB 1175

Amend the introductory paragraph of section 1 of the bill by replacing it with the following:

1 Committee Established. There is hereby established a committee to study the setting of rates of medical liability insurance in New Hampshire. The committee shall be composed of the following:

Amend section 2 of the bill by replacing it with the following:

2 Duties. All appointments to the committee shall be made within 30 days after the effective date of this act. The first appointed representative shall call the first meeting within 2 weeks after the last appointment is made. At the first meeting a chairman shall be elected from among the committee members. The committee shall examine the factors that lead to the setting of rates of medical liability insurance in the state and shall focus on encouraging other insurance providers to do business in the state. The committee shall report its findings, together with recommendations for legislation, to the senate president and the speaker of the house on or before September 1, 1992.

AMENDED ANALYSIS

This bill establishes a committee to study the setting of rates of medical liability insurance in New Hampshire. The committee shall examine ways to encourage out-of-state insurers to come to the state.

SENATOR NELSON: This is a study committee. The amendment is in the calendar on page 15. What this amendment does is it tightens the scope so that there will be no overlap with the present House committee that is already in existence. This amendment would deal specifically with the medical malpractice rates. This is one of the more simpler bills that we had.

Committee amendment adopted.

Ordered to third reading.

HB 1191, an act prohibiting insurance companies from nonrenewing a homeowner's policy solely on the basis that a claim has been filed. Insurance committee. Ought to Pass with Amendment. Senator Colantuono for the committee.

5729L

Amendment to HB 1191

Amend RSA 417-B:3-a as inserted by section 2 of the bill by replacing it with the following:

417-B:3-a Nonrenewal for Filing a Claim. The nonrenewal of a homeowner's insurance policy shall not be effective if such nonrenewal is based solely on the insured having filed a single valid claim during any previous policy term.

AMENDED ANALYSIS

This bill prohibits insurance companies from nonrenewing a homeowner's insurance policy solely on the basis that the insured has filed a single valid claim during a previous policy term.

SENATOR COLANTUONO: This bill does two things, it requires the speeding up of payment of incidental cost by the insurance company. Paragraph one requires that they be paid within 15 days after they receive a valid proof of loss. The second part, prohibits an insurance company from non-renewing an insurance policy for a homeowner simply because there has been a valid claim filed. The original bill just simply said "valid claim", but the committee felt that we needed to tighten the language to make it less ambiguous, so the amendment on page 16 refers to nonrenewal, based solely on the insured having filed a single valid claim during any previous policy term.

SENATOR FRASER: Senator Colantuono, you do know that there is two parts to a homeowners policy?

SENATOR COLANTUONO: Yes.

SENATOR FRASER: This has nothing to do apparently with any third party liability claim. It applies only to property claims prosecuted by the policy TAPE INAUDIBLE.

SENATOR COLANTUONO: Well, the testimony in the committee seemed to refer to both, Senator. As reasons why the insurance company could nonrenew you.

SENATOR FRASER: But if you read the language in 417:B:3-a, it says, "if such nonrenewal is based solely on the insured having filed a single valid claim". So you eliminated from your bill any reference to a third party liability claim being filed under section two of the homeowners policy?

SENATOR COLANTUONO: I would have to check the law to be sure about that. But as I said, when the witnesses were testifying about the bill, they were saying that this language would prohibit a company from nonrenewing because of liability claims, where they can now. Maybe if you want to take a 30 second recess, we can check it.

Recess.

Out of recess.

Committee amendment adopted.

Ordered to third reading.

HB 1196, an act clarifying the amount to be paid from the firemen's relief fund in the event of a claim. Insurance committee. Ought to Pass. Senator Bass for the committee.

SENATOR BASS: Mr. President, if there was ever a housekeeping bill, this has got to be it, in all honesty. This bill changes the word 'widowed' to 'surviving spouse' and it changes the number '4,000' to '6,000' for the Firemen Benevolent Fund, which is a fund that has been around since 1899. They have been paying \$6,000 for many, many, many years, but they just recently noticed that there was a legislative prohibition against doing that. So this basically allows them to do what they have been doing for quite some time. We urge your adoption of the committee report of ought to pass.

Adopted.

Ordered to third reading.

HB 1295, an act prohibiting discrimination in insurance policies against elected or appointed officials. Insurance committee. Ought to Pass with Amendment. Senator Nelson for the committee.

5731L

Amendment to HB 1295

Amend the title of the bill by replacing it with the following:

AN ACT

relative to rate modifications for individual
accident and health insurance policies.

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Rate Modifications for Accidents and Health Insurance Policies. Amend RSA 415 by inserting after section 23 the following new section:

415:24 Rate Modifications for Accident and Health Insurance Policies.

I. Rate modifications on individual accident and health policy forms shall be filed with the commissioner prior to implementation.

II. At the time of filing new premium rates on any previously approved individual accident and health insurance policy form, other than forms for medicare supplement policies and long-term care policies, the benefits provided by the policy form shall be deemed reasonable to the premium charge and the rates deemed approved, so long as the insurer complies with the terms of a loss ratio guarantee filed with the commissioner. The loss ratio guarantee agreement shall be in writing and shall include at least the following:

(a) A recitation of the anticipated annual and life time loss ratio standards included in the original actuarial memorandum filed with the policy form at the time of the initial approval of the policy form.

(b) A guarantee that the actual loss ratios in this state for the experience period in which the rates take effect, and for each experience period thereafter, will meet or exceed the anticipated annual loss ratio standards as recited in accordance with RSA 415:24, II(a). If the annual earned premium volume in this state under a policy form is less than \$1,000,000, the loss ratio guarantee shall be based on the actual nationwide loss ratio for the policy form. If the annual earned premium volume nationwide is less than \$1,000,000, the experience period shall be extended until the end of the calendar year in which \$1,000,000 of earned premiums is attained.

(c) A guarantee that the actual loss ratio results for each calendar year the rates are in effect shall be independently audited during the second quarter of the following year at the expense of the insurer. The audited results shall be reported to the commissioner no later than the date for filing the applicable accident and health policy experience exhibit. The audit shall be conducted in accordance with generally accepted auditing or actuarial standards and shall be signed by a certified public accountant or a member of the American Academy of Actuaries.

(d) A guarantee that affected policyholders in this state shall be issued a proportional refund of premiums paid in the amount necessary to bring the actual loss ratio up to the anticipated annual loss ratio standards as recited in accordance with RSA 415:24, II(a). If national loss ratios are used, the total amount refunded in this state shall equal the dollar amount necessary to achieve the loss ratio standards, multiplied by the total premium earned in this state on the policy form and divided by the total premiums earned in all states on the policy form. The refund shall be made to all policyholders insured under the applicable policy form as of the last day of the experience period at issue and whose individual refund would equal \$5 or more. The refund shall include interest at the then current accident and health reserve interest rate established by the National Association of Insurance Commissioners calculated from the last day of the experience period at issue until the date of payment, which shall be during the third quarter of the following year.

(e) A guarantee that refunds of less than \$5 shall be aggregated by the insurer and paid to the department of insurance.

(f) A guarantee that no increase in premium rate obtained pursuant to this section will be implemented on any individual policy in this state until after the policy holder has received at least 30 days advance notice of the planned increase.

(g) For the purposes of this section, "loss ratio" means the ratio of incurred claims to earned premium by number of years of policy duration, for all combined durations.

(h) The commissioner shall adopt rules under RSA 541-A necessary for the proper administration of this section.

AMENDED ANALYSIS

This bill requires that all rate modifications of accident and health insurance policies be filed with the insurance department prior to implementation and that such rate changes be in compliance with loss ratio guarantees filed with the department.

SENATOR NELSON: HB 1295 on page 16 of the calendar is only dealing with individual policies. I was trying to think of a description and I would tell you that it deals with Insurance Companies that are similar to Lloyds of London. They are only insuring excess risk, I was going to say weird and wonderful, but that wouldn't sound right. Maybe your piano hands or something, so I just want you to know that it is individual policies. We are talking about a very small number of people effected. The reason that this bill was introduced is to put into a law a practice that already is in effect. The commissioner is already doing it. The other change is that the premium would now be based on the actual loss as opposed to the projected loss. That is what that bill does, basically.

Recess.

Out of recess.

SENATOR NELSON: Because Senator Colantuono asked me this question, I perhaps note it for the record, that the whole bill was amended over and replaced by this amendment. It is a new bill that was placed in the Insurance committee, I think it was in the public forum when we did this by the way. Also, I want you to know that what we have done is add rules and regulations under RSA 541:A on the commissioner, so that there are checks and balances as you go along and that the public will have access to this in the Rules committee.

SENATOR PODLES: Senator Nelson, the original bill is prohibiting discrimination in insurance policies against elected or appointed officials. Could you tell me why it was changed? I mean, is this not necessary or is this happening or isn't happening?

SENATOR NELSON: It is not happening. They tell us that the Deputy Commissioner, I believe, told us, that this is not happening, there is not discrimination against elected officials.

Committee amendment adopted.

Ordered to third reading.

HB 1390-FN, an act providing a 5 percent cost of living adjustment for teacher members of the retirement system and providing a 10 percent cost of living adjustment for teachers retired prior to July 1, 1957. Insurance committee. Ought to Pass. Senator Hollingworth for the committee.

SENATOR HOLLINGWORTH: HB 1390 does exactly what the analysis of the bill says. It allows for a COLA for teachers who retired, a five percent COLA for those who retired prior to 1991 and ten percent COLA for those who retired prior to 1957. There is plenty of money, actually there is \$8,000,000 in their special fund. Last year they were denied their COLA and it was a desperate situation for many of those teachers. They do not receive health care under their retirement plan and this COLA helps pay for their medical costs. I would ask for your support on this very important piece of legislation.

SENATOR BLAISDELL: Senator Hollingworth, 20 years ago, Senator Hough and I sponsored this bill for the retired teachers that retired before 1957.

SENATOR HOLLINGWORTH: I believe that. I was also told that it was considerably older than it.

SENATOR BLAISDELL: I can tell you that 102 is the average age. Adopted.

Ordered to third reading.

Senators Currier, Disnard and Heath (Rule #42).

HB 1408-FN-L, an act relative to technical changes in the unemployment compensation law and increasing the amount of taxable wages. Insurance committee. Ought to Pass with Amendment. Senator Colantuono for the committee.

5728L

Amendment to HB 1408-FN-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT

relative to technical changes in the unemployment compensation law and increasing the amount of taxable wages and relative to the amount of out-of-state service which may be purchased by group II members.

Amend the bill by replacing all after section 2 with the following:

3 Purchase of Out-of-State Service by Group II Members. Amend RSA 100-A:4-c, I(e) to read as follows:

(e) The amount of creditable service purchased shall be either the full length of service rendered in the other system or a [pro-rata portion of such service purchasable with the maximum amount which the member is permitted to withdraw from the other system] **portion of such service as the member may elect to purchase;** and

4 Repeal. The following are repealed:

I. RSA 282-A:82, IV and V relative to certain contribution rates.

II. RSA 282-A:87, III relative to the adverse rating cost.

5 Effective Date.

I. Section 1 of this act shall take effect January 1, 1994.

II. Section 3 of this act shall take effect upon its passage.

III. The remainder of this act shall take effect July 1, 1992.

AMENDED ANALYSIS

This bill increases the employers' contribution cap from \$7,000 to \$8,000 effective January 1, 1994.

The bill makes adjustments to the reduction in contribution rate associated with the level of funds in the unemployment compensation fund. The bill increases the level of moneys in the compensation fund necessary before any reduction in contribution rate is realized.

This bill allows group II retirement system members to purchase either the full length of service rendered in an out-of-state retirement system, or a portion of such service as the member may elect to purchase.

The bill also repeals provisions of law relating to reductions in the employer's contribution rate when the unemployment compensation fund exceeds a certain amount and the liability of certain employers for an adverse rating cost.

SENATOR COLANTUONO: This bill is the bill that is needed by the unemployment compensation fund to get back up to levels that

will be safe. There has been quite a drain on it. The trust fund is now \$117,000,000, last year it was up over \$200,000,000. Basically what this bill does is increase the level at which the employers have to pay on the salaries of their employees from \$7,000 to \$8,000, but it doesn't do it until January 1, 1994. The bill also repeals the adverse rating cost which will increase the rates that some employers have to pay. But the reason that we are doing that is because the original intent of that was to affect large companies that had a lot of layoffs and unemployed people. But the way that it is working now is to really harm the small businesses in the state, and so we are going to do away with that, and we can bring it back when the recession is over. The bill also repeals certain discounts that are given under present law, the higher levels of discounts .3 percent and .5 percent, but it keeps in the discounts of up to .2 percent. So with these changes, the Division of Employment and Security believes that the fund will be in good shape to match federal guidelines.

Committee amendment adopted.

Ordered to third reading.

HB 1407, an act repealing laws relative to abortion. Judiciary committee. Inexpedient to Legislate. Senator Podles for the committee.

SENATOR PODLES: HB 1407 repeals New Hampshire's current laws on abortion leaving nothing on the books to deal with abortion. Should Roe versus Wade be reversed as is presently possible, no deterrent or prohibition would exist in New Hampshire. This would severely limit the state's ability to impose meaningful restrictions on abortions performed in the eighth or even the ninth month of pregnancy. The lives of unborn children should be protected and such protection is the responsibility of the state. The right to life is a civil right and not a religious right. The enactment of this bill would send the wrong message to the citizens of the state. It would be going in the wrong direction, in opposition to family life. I urge inexpedient to legislate.

SENATOR DISNARD: I move ought to pass for the purpose of a floor amendment and I would like to speak to the floor amendment.

SENATOR DELAHUNTY (In the Chair): Senator, we have to take a vote on the motion of ought to pass first before you can offer the floor amendment.

Recess.

Out of recess.

SUBSTITUTE MOTION

Senator Disnard moved to substitute ought to pass for inexpedient to legislate.

Recess.

Out of recess.

SENATOR DISNARD: Mr. President, I withdraw my motion.

SUBSTITUTE MOTION

Senator Hollingworth moved to substitute ought to Pass for inexpedient to legislate.

SENATOR HOLLINGWORTH: I have labored long and hard over what I am about to say to you today, because I am reluctant to stand up on abortion bills. I vote the way that I believe, but I have tried to vote my constituents viewpoints. It was a hard decision that I came to that I would be choice. I was raised as a Roman Catholic and I presume that I will be buried as Roman Catholic, so my decision has been in conflict with my religious background. But on this bill, that decision is really not the issue. The issue is whether laws that will not protect the lives of women will stand in New Hampshire as the laws that we would like to have in the event that Roe versus Wade is reversed or eroded. That, as you know, is very likely, that comes as no surprise to any of you that through the course of this summer or soon after the election, that the U.S. Supreme Court will rule on Roe versus Wade. Now none of us knows exactly what that court will rule, whether they will abolish totally Roe versus Wade or whether they will pick away from it again further. But we do know for certain here today that the three laws that are under 1407 to be repealed, are laws that cannot work in New Hampshire. What they would in fact do, is they would put us back into the dark ages. Because of the way that they are written, they would require that a woman testify against herself if she should feel life, and certainly if a woman is going for an abortion, she is not going to say that she feels life, because that is supposedly what quickening means. Quickening does not have any terminology in todays medical terms. We talk about trimesters, and to use that term, if a woman were to abort herself or to find a doctor that would perform it, she would have to go against her, if she were brought into court, testify against herself, that is not going to happen. Is that what we want to do, is to take doctors and send them away for 10 years because they assisted women in what has been the law of the land since 1973? I think not. But that is what would happen. If doctors chose to go forward with what has been accepted practice and policy in this state and in this

country, they would be persecuted; and believe me, it would happen. At the hearing, the Archdiocese had an attorney that came before us and I asked him the question of do you believe that the laws that we are repealing, that you would try or to attempt to enforce? The answer was, yes. If Roe versus Wade was repealed, that they would find a case immediately in which they could prosecute. What would that mean? I am old enough to remember horror stories and things that were happening to friends and people that I knew, and the decisions that they went through. Believe me, if we repeal this, you are not going to stop abortions or if they repeal Roe versus Wade, you are not going to stop abortions, what is going to happen is that you are going to have abortions, because once a decision is made, once a woman decides that this is what she has chosen, this is for her, the only decision that she can take or the only position that she will go in, she is going to go forward. They did in the past and they will in the future, if Roe versus Wade is eroded. What will happen, is that you will have abortions, but you will have deaths. It will not only be the death of the fetus, but it will be the death of women. That is why it is very emotional for me to stand up here and talk about this, because it seems that when I listen to the other side, and I have for years on this, it is overwhelmingly the dominant male church, the males saying that women will endure that suffering and will endure their deaths, if they are foolish enough, as they put it, to get pregnant. That is hard as a mother of three daughters and a granddaughter. I never want to have that point that any of those of my loved ones or any of their children in the future, are going to have to make that decision to go back into the dark ages. Whatever your religious belief is, and whatever your church's belief is you can take that belief and say to your children, you will if you believe as I do, not to have an abortion. But what about the millions of other women out there who do not believe the same? Do we have the right to tell them what they will do? I think not. Because you are not going to prevent it, and they will go forward, but what we will deny them is the right to have a safe abortion. Eleanor said that we will have a wide open system, and that is just not so. In New Hampshire now, there is no law that says that you cannot have an abortion after 24 weeks, there is no third trimester, but no one performs them and no one would. It just wouldn't happen. Ninety-one percent of the women that choose to have an abortion, have that abortion within the first trimester. They make the decision and they take action, and that would continue to happen. The doctors would not change their standards, they would stay the same. So that argument just has no weight and just would not carry. I am not going to belabor this, because I think that we all have made up our minds and we all know which way that we are going to go. But one of the things that I want you to think about,

because I think religion does come down to it, even though I wish that it didn't. One of the things that I asked also at the hearing is, that a priest came and he said to all of us why the church was opposed to abortions, and he went through the whole reason, and at the end I said, "you have given us the background of the church's belief on abortion but where does the church stand on contraceptive measures?", and he said, "we are totally opposed to them, there can be no contraceptive measures, except natural. Nothing should come between life." That is interesting to me that they are so locked, that they believe that there may be a family that might have ten children, my grandmother had eighteen children, they didn't have the advantages in those days of contraceptive measures. You either got another bedroom or you whatever, but that is the change that we have today. The choice to have if we were to practice, and if we set laws here today, if we are going to set laws on religious beliefs, are we going to set laws that you can't practice contraceptive measures as well. That is one of the beliefs that they believe in very strongly, just as strongly as they believe about abortions. They also said, that they don't believe in in vitro fertilization. Now I have a son and a daughter-in-law who couldn't have children and they went through a great deal of pain and suffering when the church told them, sorry young folks, you can't go through in vitro, that is not natural, we only believe in the natural way of having kids. So here you have one side, they are saying 'life at all cost' and when there is an opportunity with science and technology to have life at all costs, they are saying no. So I guess what I am saying to you is, these are laws that are old and they no longer meet the standard of need in this country or in New Hampshire, particularly. I think that choice belongs with a woman and have faith in us. I think that we make the right decisions. Please repeal these laws so that in the event that Roe versus Wade does get picked away or repealed, we do not place death in New Hampshire to innocent women and pain and suffering to their families.

SENATOR HUMPHREY: Mr. President, this debate is not or at least it should not be about contraception or in vitro fertilization or this church or that church or any church. That is not the matter before us. The matter before us is whether we want to repeal those laws now on the books, however nullified by existing Supreme Court interpretation. To repeal those laws entirely and have no statute whatsoever on the books in this important matter of abortion. If this motion to pass is adopted, and these laws are repealed, and if as most people believe, Roe versus Wade is either overturned or significantly weakened, it means that New Hampshire becomes a mecca for those who seek an abortion. It means that there will be no

restrictions whatsoever, that one can have an abortion in this state at anytime during pregnancy, for any reason at all, under any and every circumstance. This will be a wide open state for abortion if this motion passes. That is the question before the body. I urge the members to defeat it. I know that this is a troubling issue and why is it troubling? It is worth asking ourselves why are we personally troubled to the depths of our souls about this question of abortion? If it didn't involve another human life, there wouldn't be any need to be troubled, it would be routine, it would be a housekeeping measure and it would go through here without debate. The reason that it is controversial, and the reason that it troubles us to the depths of our souls is that we know as a matter of self evidence, that human beings produce human beings. The offspring of human beings are human beings, it can't be otherwise. That isn't Catholic doctrine or even religious doctrine. It may coincide with some of those religious doctrines, but I am talking about well established scientific facts, that the offspring of human beings are human beings. It is self-evident to me. Now some may not see what is self-evident to me, that happens now and then, for reasons that I can't understand. But it is self-evident, I think, that is why it is so troubling to us. A man called me the other day who is thinking of running for high office, I won't obviously divulge the name or even the office, but he is a conservative person and he said, "by the way, I want you to know that I am going to be pro choice", I said what do you mean, are you changing your mind? He said, "yeah, I know, personally, I think, that it is murder." and I said to him, "well, no office is worth trading your conscience. If you believe that it is murder, act like it is murder." I don't go around using that word, I choose not to because it doesn't help the debate, it is inflammatory and it makes people feel bad, and I just don't use it. But if you think that it is wrong, there is only one reason to think that it is wrong, right? I mean what other reason is there to think that it is wrong or to be troubled by this matter, than your belief that these little creatures conceived by human beings, are human beings and it can be no other way. Abortion has but one purpose and that is to kill a human being, an innocent, helpless human being who has offended no one in any serious respect. That is why this is a troubling issue. We know that abortions kill human beings. We know that also many of our constituents favor what is called the pro choice side. Let us suppose that this were 1860 and we were in the legislature, the Senate of the state of South Carolina, don't you suppose that the majority of our constituents would favor slavery laws? The same slavery laws that were upheld by the Supreme Court that passed on Roe versus Wade, you know damn well that our constituents would want slavery. It was convenient in those days to treat black human beings as property and dispose of them at

will as property. It is convenient today in this age of self-indulgence to treat unborn human beings as property and to dispose of them as property. That is repugnant. Because it is clear that the offspring of human beings are human beings and it cannot be otherwise, that is a matter of science. If you recognize it, for Gods sake, act like it.

SENATOR MCLANE: For the second time today, I agree with Senator Humphrey. I believe that he ended his words, by saying, "for Gods sake, let's face it." I have been in this legislature, I was elected in 1969. I have dealt with the threats of male politicians, Governor Powell, Governor Thomson, Governor Sununu and Governor Gregg and on this issue, the time has come. You are on one side or the other, and that is what this vote will mean today. Nothing that any of us say is going to change that. Senator Humphrey has made a threat that New Hampshire will become a mecca for abortion. I would repeat the eloquent words of Hollingworth, "that medical practice in New Hampshire today, preserves the right of privacy between a woman and her doctor, and does nothing more." It would not become a mecca, because I believe that we can trust our medical profession. As a mother of three girls and a grandmother of eight girls, I don't want to see us go back to the days that I well remember. The right of choice is an all important issue. Candidates for Governor, such as Steve Merrill will not try and halfway get my vote, by saying that they favor abortion for rape and incest, and then sort of quietly, the health of the mother. You are on one side of this issue or the other, there is no middle ground. The time for study is gone. We have offered over the years that I have been in the legislature, bills to repeal the 1848 statutes and they were vetoed. We have offered the codification of Roe versus Wade, and that was vetoed. Today the day is here, the political climate will no longer take someone who said "I want to study it a little longer more", or "just give me health of the mother", or "I don't approve of nine month abortions". There are no nine month abortions in this state and that is not the issue. The issue is where are you on Roe versus Wade, the day has come and I ask for your vote.

SENATOR DUPONT: Let me start out, Senator McLane, by saying that, as you know, you and I have had many discussions about this issue over the years. We have discussed this this year. I disagree with what you said a little bit earlier, because I don't think that as much as we would like to define this as being a black and white issue, that it can't be that clear to many of us. As you know, I have risen in opposition in the past to repealing the existing laws, because I feel that as a matter of public policy that we have to do better than that. Quite frankly, it disturbs me a little bit as I have spoken to many of the members of this body, are those that advocated choice position

and I indicated to them that I thought that they could do better and it wasn't enough just to send a message to the Governor or to the whole world that this body believes in the choice position without really dealing with the problem that we face as policymakers. As many of you know, this is an issue that I have wrestled with both personally and as a person who believes in good public policy, I have spoken to many of you. I think that everyone in this chamber is pro life. I don't think that any of us believe that the human life is anything but sacred, however, it gets back to the issue of whether it can be that clear or whether it can be just a question that has a line straight down the middle, where you are on either one side or the other. I am one of those who has a difficult time finding which side of the line I ought to be on. It is interesting when we debate this in the Senate now, and previous years as you know, Senator McLane, someone would get up and give the committee report and then there would be somebody else moving the question, and then there wouldn't be debate, because we were too embarrassed or too uncomfortable with even discussing this issue in this Senate. I find the same level of discomfort that many have when it gets to the point of talking about this. We all sit here uncomfortable about the subject, but unfortunately, it is an issue that we have to deal with. As many of you know, a couple of years ago, I sat down and tried to craft the public policy. I said that it wasn't enough just to say that we are going to allow choice to take place in New Hampshire without addressing the other facets of the problem. What I ended up doing is getting both sides mad at me. Both sides found my position either too restrictive or that it didn't go far enough. My decision to offer that amendment two years ago did signify a change in my position, a change of my view on this issue. I want to tell you a little bit how I arrived at that change. I went out and I sat down with a number of health care professionals, some clergy who I have a great deal of respect for, some social workers who have to work with problems of what this issue creates for them, and quite frankly, they are all uncomfortable with it. They are all anguished by having to put themselves in a position in where they have to assist people in making that choice. I don't know if anyone in this body has ever had either to assist somebody in making that decision or had to make that decision for themselves. If they have, certainly I can understand how difficult it would be, I personally don't want to be in that position, because I do believe that from my own perspective, I know what side that I would come down on if it was my choice to make for either myself or a member of my family or friend that I was involved in. But what came through loud and clear when I spoke to everyone about what I thought good public policy ought to be on this is that whether you are talking to the medical professionals, they have a

difficult time with the issue, you are talking to clergy, they are in the same situation, and social workers are in the same situation, find themselves having a difficult time with this personally and a difficult time with it as a matter of public policy. I find that interesting, because what we are talking about is a group of individuals who are trained to deal with those issues and yet we find ourselves as politicians sitting here, the most ill equipped to deal with this issue and yet it is in our laps. That is what I find so uncomfortable about it. I stand before you as someone who deeply cares about the state of New Hampshire and about the children of the state of New Hampshire. I like to think that that is one of the hallmarks of my career here as a legislator. I have always tried to act in their best interest, and quite frankly, I know at times that is very difficult for us to do, because it does run into conflict sometimes with our own personal view. It is for that reason today that I am going to vote against this and I want to be up front with everyone. It is not because I have difficulty with the message at this point, but it is in my opinion that we can do better. I will briefly speak to that. Quite frankly, we should start with codification of Roe versus Wade. I think if that is a matter of public policy, recognize that we first put that into place as guidelines as when and when it is not acceptable for an abortion to take place in the state of New Hampshire. But what is interesting when I say that, and what is most important, government's most important role is prevention, and I don't want to give a speech on that today, but I just want to tell you that I find it extremely uncomfortable when I drive to Concord in the morning and I listen to the city of Manchester debate about putting a day care in a high school for 100 teenage students that are pregnant. As a society, what have we done to ourselves? Quite frankly, as we look at this issue, we roll merrily along trying to address the problem that we have created without really getting serious about preventing people from having to make that decision. That quite frankly, is the role of what government should be. Quite frankly, it is what is missing in this piece of legislation today. Let me just tell you that it is not a perfect world. I understand that we can't change the social ills that exist in our country overnight, but we do have to try. It is impossible to legislate morality, but I have simply reached the point when I can no longer, in good conscience, turn my back on the people of this state who find themselves in a situation where they must choose whether or not to terminate a pregnancy. I can't tell a 39 old mother of four who finds herself pregnant and she and her husband both are out of work, a mortgage on the house that hasn't been paid for 90 days and no medical insurance. When that woman calls me up and asks me to make the choice for her, quite frankly, I can't say to a 16 old girl who is full of hopes and expectations about the rest of her life, that she

has to put all of that aside. I don't want to be in the position to recognize that we failed as a society when we get to that point and we have to let people make decisions, a terrible decision, that quite frankly, does effect all of us. So I stand here today again, in opposition to the pending motion before us of ought to pass. I would like to issue the challenge that we as legislators can do better. I sat down with Senator Shaheen, I have sat down with Senator McLane, Senator Nelson and I have talked, it is time that we moved to common ground on this issue; put the issue in a perspective where we have a problem that needs to be addressed, and hopefully, when we get to that point, we will all be able to sit back, sit in this chamber and discuss this issue rationally as a matter of public policy. But quite frankly, try to address the terrible dilemma that people who get to the point where they have to make this decision, find themselves in. Thank you, Mr. President, I appreciate the opportunity to take the time of this body in addressing this issue.

SENATOR HOLLINGWORTH: Question of Senator Dupont.

SENATOR DUPONT: I don't yield.

SENATOR COHEN: None of us are comfortable with this issue. We have dealt with this issue over and over again. The House and the Senate twice have repealed this law, twice we have gone through this exercise, and both times the Governor has chosen to make the choice for all women of the state of New Hampshire, the Governor vetoed this. I must disagree with Senator Humphrey, to no great surprise, that is if this law is repealed, that New Hampshire will not be a mecca for abortions as has been charged. Right now, third trimester abortions are not performed in New Hampshire, even though they are perfectly legal under Roe versus Wade. They are not performed, this wouldn't change. In 1848 when this law was created, as Senator Humphrey pointed out, blacks were property, people owned blacks, white people owned black people. In 1848 women didn't have the right to vote. All of the women in here today couldn't be here under laws of 1848, under laws that were in place at that time. This law is certainly draconian and extreme. It is a terrible insult to all of the women of the state of New Hampshire. Clearly nobody in this room is undecided about this issue. I don't believe there is anything but black and white about this issue. You are either pro choice or anti choice. I don't believe that there is a middle ground, but I think that it is important, even though we have all made up our minds, to recognize that our role as state Senators, is at the very least to listen to our constituents and to speak for our constituents, to speak on their behalf. This bill, the law as it currently is, would send doctors to jail and could threaten sending women to

jail. I ask those of you who are for keeping this 1848 law on the books, do you really want to tell your constituents that you want to send doctors to jail and you want to send women to jail for making this choice. Is that the message that you really want your constituents to know, that that is really your position? I would just urge you all to just think about the fact that the 1848 law, according to the American College of Obstetricians and Gynecologists, the 1848 law is medically out-of-date, and is in fact, inhumane. In 1848 there was little or no opportunity for parents to know about the condition before birth. Now we can learn about a great deal. Most of the time the information is very reassuring to the parents, but sometimes lethal problems are identified. A condition for example, in which the top part of the head and the majority of the brain have not developed, it is a serious abnormality. But when this condition is identified early in pregnancy, most families make the difficult decision to terminate the pregnancy. But this is certainly a preferable decision into carrying this seriously deformed fetus for 40 weeks and going through labor and then watching the newborn die, as it inevitably will, as we have seen just recently. The 1848 law, unless we repeal it, would deny the parents this choice and prohibit physicians from providing the appropriate compassionate care. Think about the message that you are sending back to your constituents. That is all that I ask. It is time to repeal this bill. Thank you.

SENATOR SHAHEEN: Senator Dupont, I think that you said something that was really important when you said that this issue is in the laps of the politicians. It doesn't belong here. This issue should be decided by a woman and her family and her physician. Government should not be involved in this. The idea that New Hampshire is going to become a mecca for abortions to be performed in the eighth or ninth month, is just ludicrous. I can tell you because I got pregnant when I was 39, and when I went and had amniocentesis done they told me if there was a problem with the child that I could not have an abortion performed anywhere in New England. It's just not done in New Hampshire. Now if we are going to debate what New Hampshire's abortion laws ought to be, we ought to do it in the context of 1992 or 1993 or 1994 whenever Roe is overturned, if it is overturned, but it should not be in the context of 1848. I have heard a lot of people say that they don't believe that we should allow abortions. I have not heard anyone, Judd Gregg, Gordon Humphrey, Ed Dupont, anyone who says that they are against abortion, say that they believe a woman should be prosecuted for having that abortion, and that is what the 1848 laws would do. I don't think that we want to do that. I agree, Senator Dupont, that we can find common ground, that we should try and prevent unwanted pregnancies, but

the fact is, you are still going to get pregnant, even with birth control, even with all of the kinds of prevention that we would like to have. I can tell you, because I did it. So I know that we can't under all circumstances prevent unwanted pregnancies. So we have got to say that we are going to take a position on this issue. I believe, that that position ought to be to allow the women and their families and their physician to make that decision. Let's get these 1848 laws off of the books so that we can debate and codify a position should Roe be overturned.

SENATOR NELSON: I too, had a late pregnancy in my life, and I too, was offered amniocentesis, and I chose not to take it. So amniocentesis is open to anyone whether you are pro life or pro choice. I wasn't quite as old as Jeanne, probably a little bigger than Jeanne. I wanted to say that really, just one point that I wanted to make. As Senator Dupont said, and he said the truth, no one in the room is for abortion, nobody wants it. Part of the problem that I think we face now, is that Roe versus Wade is still in effect, it will supercede these laws, it has been in effect, women in the state of New Hampshire will continue to have the choice that they seek for an abortion. I received many phone calls and letters, as I am sure that all of you did on both sides of the issue, and I asked many pro choice women and men who called me, what did they think about leaving absolutely no laws on the book? They told me that they were surprised to know that second and third trimesters would be allowed, or at least in their mind, there would be no stopgap measures put into place. It is probably one of the most divisible issues to hit the United States. The problem is this: while we keep women in the corner fighting about abortion, whether you are pro or con, women in this state are starving, women in this state are being beaten and they are dying, domestic violence is at its highest, read the Boston Globe, look at the woman who just got killed; children go to bed hungry, child abuse is higher than it has ever been. I have voted on this issue for ten years. We haven't changed or made better, to some extent, the quality of lives of these mothers and these babies and these families. While women are going to bed, and children are starving, we should begin to stop being polarized and manipulated by a topic that already is in the law to this day, and put our energy into making the quality of life for women and children better. I think to some extent, we waste our time on this issue, only because it is presently a law and you can have a choice. I don't want to be too long-winded, but I want my constituents to know that I certainly appreciate their positions, but Roe versus Wade is still in effect. We today aren't going

to make a tinkers dam of a difference. We can vote one way or the other, but the reality is that every woman in the state of New Hampshire who chooses to have an abortion, will have it because Roe versus Wade is still in effect.

Senator Blaisdell moved the question.

Adopted.

Question is on the substitute motion of ought to pass.

A roll call was requested by Senator McLane.

Seconded by Senator Hollingworth.

Paired Votes: Senator Dupont and Senator Russman.

The following Senators voted Yes: Oleson, W. King, Fraser, Hough, Currier, Blaisdell, Bass, Pressly, McLane, Shaheen, Hollingworth, Cohen.

The following Senators voted No: Heath, Disnard, Roberge, Nelson, Colantuono, Podles, Humphrey, J. King, St. Jean, Delahunty.

Yeas 12

Nays 10

Substitute motion of ought to pass is adopted.

Ordered to third reading.

HB 1339, an act requiring the division of human services to report certain obligors to consumer reporting agencies. Public Institutions, Health and Human Services committee. Ought to Pass with Amendment. Senator J. King for the committee.

5691L

Amendment to HB 1339

Amend RSA 161-C:26-a, I-a, (a) and (b) as inserted by section 2 of the bill by replacing them with the following:

(a) A legal order of support is being adhered to by the obligor;

(b) The obligor's wages are assigned pursuant to RSA 458-B and the wage assignment, pursuant to a court order or pursuant to RSA 458-B:4, addresses arrearages;

AMENDED ANALYSIS

This bill requires the division of human services to report to consumer reporting agencies certain obligors who owe child support and are in arrears for more than 60 days payable to or through the division.

SENATOR J. KING: HB 1339 would allow the Division of Human Services support collection division to report those responsible who are suppose to pay support payments to consumer reporting agen-

cies if they have an arrearage which is more than 60 days total payment. The bill also sets up a procedure on how this would be enforced. It is a good asset in enforcing the payments of support and we seek your approval of HB 1339.

SENATOR COLANTUONO: Senator King, what is the main purpose for requiring this report to be made? I mean, what do you think that this will accomplish for the good of the people?

SENATOR J. KING: The committee and the people that were there and Health and Human Services think that it is a way of letting the agencies and the credit union, I guess is one of them, that this person is also in arrearage there, just as if he hadn't paid a bill someplace else.

SENATOR COLANTUONO: What happens if a person is having legitimate financial trouble as they might in the current economic circumstances and might be trying to raise money by either starting a business or working a second job or something, and they become not able to do that because their credit is ruined by having this report on their record? I mean, aren't we maybe defeating our purpose here?

SENATOR J. KING: The bill allows for those conditions. In other words, there are five different ways that this would go into effect and the last one is that the divisions determine that there is a good cause not to report the arrearage. If he was in debt or was unable to pay and there was a good reason it, it would not be reported to the consumer agency.

Committee amendment adopted.

Ordered to third reading.

HB 1374, an act establishing a task force on women at risk for alcohol and other drug abuse during pregnancy. Public Institutions, Health and Human Services committee. Ought to Pass with Amendment. Senator J. King for the committee.

5690L

Amendment to HB 1374

Amend RSA 132:19 as inserted by section 2 of the bill by replacing it with the following:

132:19 Task Force Established; Membership.

I. There is established the task force on prenatal chemical dependency. The task force shall be composed of the following members:

(a) Two members of the house of representatives, appointed by the speaker of the house.

(b) Two members of the senate, or designees, appointed by the president of the senate.

(c) The director of the office of alcohol and drug abuse prevention; or designee.

(d) Three members from the committee established in 1990, 25, appointed by the former chair of such committee.

(e) Two members from the medical community, preferably obstetricians, appointed by the governor.

(f) The director of the division of public health services, department of health and human services, or designee.

(g) The director of the division for children and youth services, department of health and human services, or designee.

(h) The commissioner of the department of education, or designee.

(i) The chairman of the state liquor commission, or designee.

(j) A representative of the New Hampshire Family Planning Council, appointed by such council.

(k) A registered nurse, appointed by the New Hampshire Nurses Association.

(l) A midwife, appointed by the Nurse Practitioner Association.

II. The term of office for members of the task force, except those appointed under subparagraphs I(d), (e), (j), (k) and (l) shall be coterminous with the term of office in the position that qualifies that member to be a member of the task force. The term of office of each member appointed under subparagraphs I(d), (e), (j), (k) and (l) shall be 2 years and until a successor is appointed and qualified.

Amend the bill by replacing section 3 with the following:

3 Repeal. RSA 132:19-21, relative to the Task Force on Prenatal Chemical Dependency, is repealed.

4 Effective Date.

I. Section 3 of this act shall take effect July 1, 1997.

II. The remainder of this act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill establishes a task force on prenatal chemical dependency which is to monitor and evaluate efforts to prevent prenatal substance abuse, to stay informed on issues relative to the latest methods of prevention and treatment and to maintain collaboration and coordination between state agencies which are addressing this problem.

The task force is to submit an annual report to the governor, the speaker of the house and the president of the senate.

The task force is repealed on July 1, 1997.

SENATOR J. KING: HB 1374 is the result of a study committee that was set up to study the effect of the women at risk on alcohol and drug abuse. One of the main things that came out of that study was to set up a task force that would continue to address the same issues that were addressed in the study committee and the need for it is great. One of the other things that the study committee did get done, was to set up in the liquor stores a sign that indicates the use of alcohol during pregnancy is dangerous. So all that this does is set up a task force to keep monitoring and following through and trying to find ways that can improve the situation. We seek your approval of HB 1374. Thank you.

Committee amendment adopted.

Ordered to third reading.

HCR 28, an act urging the federal government to restore full funding for prescription drugs for veterans with service-related disabilities. Public Institutions, Health and Human Services committee. Ought to Pass with Amendment. Senator Bass for the committee.

5699L

Amendment to HCR 28

Amend the title of the resolution by replacing it with the following:

A RESOLUTION

urging the federal government to restore full funding
for prescription drugs for veterans.

Amend the resolution by replacing all after the title with the following:

Whereas, in the 1980's, prescription drug prices rose 152 percent, nearly 3 times faster than the rate of inflation; and

Whereas, prescription drugs are expensive items for the majority of Americans and unaffordable for many of this country's poor population; and

Whereas, American veterans are among those most burdened by the costs of prescription drugs; now, therefore, be it

Resolved by the House of Representatives, the Senate concurring:

That the Congress of the United States is urged to eliminate federal laws and regulations which require certain veterans to share in the costs for their prescription drugs and to enact legislation to restore full funding for prescription drugs for veterans; and

That copies of this resolution signed by the speaker of the house and the president of the senate be forwarded to the President of the United States, and to each member of the New Hampshire congressional delegation.

5699L

AMENDED ANALYSIS

This house concurrent resolution urges the federal government to pass legislation eliminating cost sharing for prescription drugs for veterans.

SENATOR BASS: Mr. President, it comes with some surprise that I noted that I was called upon to report this bill out as ought to pass as amended. I think the reason for that may have been that there were three of us in the committee room and we were trying to divide up who was going to which bill. Let me explain first of all, what this does. It urges the Congress and the Senate to restore the prescription subsidy for veterans. The original resolution called on Congress to restore prescriptions for veterans with service related disabilities. What the Senate amendment does is eliminate 'service related disabilities', so now we are talking about restoring subsidies to veterans, all veterans now. In the first place, the reason why the subsidy was curtailed a little bit, and as I recall, it was curtailed to two dollars per prescription. It occurred as a result of the efforts that Congress made last year to put some kind of a rein on the budget deficit. You may all recall that a couple of weeks ago, Senator Warren Rudman announced his intention not to seek another term in the Senate, and he did so for many reasons, not the least of which was, that he didn't think that the Congress, and the President, and the American people had the fortitude to make tough choices with respect to cutting expenses and/or raising taxes in order to balance the budget. Now this resolution seeks to undo a very small portion of what Congress was attempting to do last year, which was to balance the budget. When a witness appeared in our committee, I asked this individual who was a veteran if he agreed that what Senator Warren Rudman stood for was laudable, and he said yes. Then I asked him, are the veterans of this state or any state in this country willing to make any sacrifice at all along with everybody else, social security recipients, federal government retirees and so on and so forth in order to bring this problem under control and he said "yes, but not on this, something else". Now I would ask the Senate to do what they think is right. This resolution doesn't amount to anything, it is a resolution. It is easy to vote for and to vote against, this thing is nothing, nothing but a negative. You alienate yourself from the veterans, but the fact is, I think, that there is a question involved

here, and that question is, are we going to say that the ideals that Senator Rudman stood up for last week have some meaning and are we going to begin, how be it in a very small fashion to follow those footsteps and put our foot forward and say that we are willing to make tough choices that may alienate us from various special interest groups. If we feel that way, this is the opportunity not to pass this resolution.

SENATOR HUMPHREY: Senator Bass, I am looking at the language of the resolution as amended. The second to the last paragraph of which says that the "Congress of the United States is urged to eliminate federal laws and regulations which require certain veterans to share in the cost for their prescription drugs". Clearly the changes in the law do not require all veterans to share in the cost of prescription drugs, but just certain veterans. Can the Senator shed any light on how those certain veterans are defined?

SENATOR BASS: Yes. Senator Humphrey, I was not involved in the drafting of this amendment that appears in the calendar. I believe that they should have eliminated the word 'certain'. The original resolution reads "certain veterans with service related disabilities" and I have in my committee copy, parentheses around the word certain. This was not an idea that I had, I was simply writing down how the discussion was going in the committee. I don't think that 'certain veterans' defines anything, because you have removed in the amendment, 'with service related disabilities'. So probably if you believe that all veterans should get a subsidy back, which I don't think they are entitled to anyway, then you might want to make an amendment to this amendment. I am not, shall we say, an active participant in promoting this resolution.

SENATOR HUMPHREY: What I was getting at, is this cost sharing provision somehow income qualified? In other words, if a veteran is well-off, and service connected disabled, is that the distinction that is made in the resolution?

SENATOR BASS: No, I don't believe so. Senator Humphrey, I want to apologize. I am not an expert in the veterans disability regulations and so forth. But, I don't believe, maybe I could defer to someone else, but it is not my recollection that there is any income qualification. Any veteran who has a service related disability is entitled to free prescriptions. What the Congress did, was to set a two dollar fee that every veteran with a service related disability would have to pay for each prescription in order to cut the cost. So the maximum that you are talking about here, is two dollars per prescription, per veteran. Of course in some instances that can come to quite a bit of money.

SENATOR HUMPHREY: Thank you.

SENATOR J. KING: I will give you the reason why it did pass the committee. There are some veterans who are losing the help that they were getting in this case. It says here that they don't help them out and urge them to eliminate further laws and regulations which require certain veterans with service related disabilities. These disabilities were a result of having fought for their country, having been wounded or whatever the cause may be. I agree with Senator Rudman, there should be some changes. I don't agree that it should be this one. I would rather see all of those Senators and Presidents that get their health care, some not having been in the service, no problem, that would be the first place that they could start. Some of the other perks is the other place that they could start, but a veteran who has been disabled because of being drafted or volunteering for his country, certainly. I think that this is a very good resolution to send to them. Thank you.

SENATOR COLANTUONO: I read a letter recently in a newspaper that talked about the fact that a person went to the hospital and was charged eight dollars for an aspirin, and they went on to conclude from that that the rising health care cost are creating a crisis in this country, which demands that we have socialized medicine. Then someone responded to that letter stating that what we really should be doing is finding out why they are ripping us off for eight dollars per aspirin, that is the real problem. The drug companies, the medical providers and so forth, have increased cost so dramatically that the people are getting harmed and ruined by this. A lot of elderly people have life sustaining prescriptions that cost over \$100 in our days. Without insurance and medicare they wouldn't be able to get them. I think that this resolution should be condemning the high cost of prescription drugs and then going on to urge Congress to investigate that and have the Federal Trade Commission and the Justice Department look into that, that is the real problem. So I think that this resolution isn't aimed at the right target.

SENATOR PRESSLY: Senator King, I am trying to understand the language in trying to figure out what exists today for the veterans, and is it a possibility that today, the veterans with service related disabilities, that are in need, do get the service, and only those who have been determined. They talk here of certain veterans, might those certain veterans be those who are capable to pay for it?

SENATOR J. KING: The certain ones would be those that have become disabled as a result of service connected injuries. I also think that what they are asking is that the federal law that takes this away from them, be reconsidered and to give that back to them. I might

also add that this is addressing a veterans group, a federal law that has to do with their rights as far as service disabilities. I don't think that it has anything to do with the cost of what the drugs are today, I would love to see one of those go through, but on a separate thing. I would not put it in with this here, they are not even related.

SENATOR PRESSLY: It is unclear to me, I do support that veterans with service related disabilities that are in need of financial help, that their prescriptions be paid for. Can you tell me if that is currently being done?

SENATOR J. KING: It is to some extent, it might have been lessened, but the federal laws that they are talking about here are ones that have taken some of the advantages that they did have away from them, and they want them restored.

SENATOR PRESSLY: Thank you.

Senator Bass moved to have HCR 28 an act urging the federal government to restore full funding for prescription drugs for veterans with service-related disabilities laid on the table.

LAI D ON THE TABLE

Senator Bass moved to have HCR 28 an act urging the federal government to restore full funding for prescription drugs for veterans with service-related disabilities laid on the table.

Adopted.

HCR 28 is laid on the table.

HB 1474-FN-A, an act relative to taxability of real estate transfers. Ways and Means committee. Ought to Pass. Senator McLane for the committee.

SENATOR MCLANE: I moved to table HB 1474 until an amendment that was suppose to be on it can be drafted.

LAI D ON THE TABLE

Senator McLane moved to have HB 1474-FN-A an act relative to taxability of real estate transfers laid on the table.

Adopted.

HB 1474-FN-A is laid on the table.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

SB 418, changing the title of juvenile services officers to juvenile probation-parole officers.

**SENATE NON CONCURS WITH HOUSE AMENDMENT
REQUEST COMMITTEE OF CONFERENCE**

SB 418, changing the title of juvenile services officers to juvenile probation-parole officers.

Senator Currier moved nonconcurrence and requested a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: D. Currier, J. King, W. King.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

SB 343, relative to reconsideration of town meeting and school district meeting votes.

**SENATE NON CONCURS WITH HOUSE AMENDMENT
REQUEST COMMITTEE OF CONFERENCE**

SB 343, relative to reconsideration of town meeting and school district meeting votes.

Senator Bass moved non concurrence and request a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: C. Bass, S. Roberge, B. Cohen.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

SB 375, allowing the division of parks and recreation to give rewards for information leading to the recovery of stolen division property.

**SENATE NON CONCURS WITH HOUSE AMENDMENT
REQUEST COMMITTEE OF CONFERENCE**

SB 375, allowing the division of parks and recreation to give rewards for information leading to the recovery of stolen division property.

Senator Heath moved non concurrence and request a committee of conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: R. Heath, L. Fraser, B. Cohen.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

SB 324, establishing a commission on the family and permitting Jewish Rabbis who are not citizens of the United States to solemnize marriages.

**SENATE NON CONCURS WITH HOUSE AMENDMENT
REQUEST COMMITTEE OF CONFERENCE**

SB 324, establishing a commission on the family and permitting Jewish Rabbis who are not citizens of the United States to solemnize marriages.

Senator J. King moved non concurrence and request a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: J. King, E. Podles, S. McLane.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

SB 311, exempting certified fire investigators and certain towing companies from licensure under the detective agencies and securities services act, changing the qualification for fire investigators and changing the date for renewal or reinstatement of private detective licenses.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 311, exempting certified fire investigators and certain towing companies from licensure under the detective agencies and securities services act, changing the qualification for fire investigators and changing the date for renewal or reinstatement of private detective licenses.

Senator Currier moved concurrence.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

SB 316, establishing a committee to study cable television rates and the possibility of introducing competition into the marketplace in order to lower rates.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 316, establishing a committee to study cable television rates and the possibility of introducing competition into the marketplace in order to lower rates.

Senator Bass moved concurrence.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

SB 467-FN-L, changing the interest rates on delinquent property taxes and subsequent taxes and requiring a certificate of tax payment prior to the moving of a building or structure.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 467-FN-L, changing the interest rates on delinquent property taxes and subsequent taxes and requiring a certificate of tax payment prior to the moving of a building or structure.

Senator Bass moved concurrence.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

SB 426-FN, establishing a task force to develop a strategy to train police and prosecutors to successfully prevent, investigate and prosecute sexual assault cases.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 426-FN, establishing a task force to develop a strategy to train police and prosecutors to successfully prevent, investigate and prosecute sexual assault cases.

Senator Podles moves concurrence.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

SB 405-FN, relative to driver attitude training for repeat and habitual offenders.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 405-FN, relative to driver attitude training for repeat and habitual offenders.

Senator Oleson moved concurrence.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

SB 381, relative to interest on escrow accounts.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 381, relative to interest on escrow accounts.

Senator Fraser moved concurrence.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

SB 383, establishing a committee to recommend to the state board of education different methods of obtaining information on persons convicted of any felony involving child abuse.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 383, establishing a committee to recommend to the state board of education different methods of obtaining information on persons convicted of any felony involving child abuse.

Senator Disnard moved concurrence.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

SB 371, establishing a committee to study the feasibility of year round schools.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 371, establishing a committee to study the feasibility of year round schools.

Senator Disnard moved concurrence.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

SB 340-FN, clarifying the definition of a school district.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 340-FN, clarifying the definition of a school district.

Senator Disnard moves concurrence.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

SB 377-FN, relative to penalties for mortgage brokers who fail to file annual reports.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 377-FN, relative to penalties for mortgage brokers who fail to file annual reports.

Senator Fraser moves concurrence.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

SB 428-FN, designating segments of the Connecticut River for the rivers management program and allowing existing hydroelectric facilities to maintain operations.

SENATE NON CONCURS WITH HOUSE AMENDMENT REQUEST COMMITTEE OF CONFERENCE

SB 428-FN, designating segments of the Connecticut River for the rivers management program and allowing existing hydroelectric facilities to maintain operations.

Senator W. King moved non concurrence and request a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: W. King, O. Oleson, L. Fraser.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and Senate Bills:

HB 545, reapportioning the executive council districts.

HB 562, extending the surgical authority of podiatrists.

HB 714, relative to a life saver i.d. program.

HB 726, relative to fees charged for vital records.

HB 1209, establishing a committee to study the real estate valuation and revaluation process.

HB 1240, establishing a committee to study criteria and propose legislation concerning the secession of a portion of a municipality.

HB 1243, revising the Patients' Bill of Rights.

HB 1251, relative to the observance of Memorial Day by school districts.

HB 1323, forming a study committee to develop a survey to be used by the department of education to collect and compile information regarding major school construction projects.

HB 1351, creating a committee to review the laws governing tax-exempt property and to study the concept of and criteria for payment in lieu of taxes by tax-exempt properties in response to HBI 2 of the 1991 session.

SB 323, establishing a committee to study the issue of physician self-referrals.

SB 326, relative to the Lamprey solid waste district.

SB 331, relative to gender equity in athletics.

SB 368, changing statutory references to automobile graveyards, motor vehicle junkyards and junk vehicles to include automotive recycling yards or vehicles.

ANNOUNCEMENTS

SENATOR HUMPHREY (Rule #44): Mr. President, as members know, we tabled the insurance bill, much to the discomfort of the people in the House and in the balcony, shall we say, who are anxious to enact it, and I am sure that it will be enacted. It certainly is not our intent to delay it unduly. But we did discover in fact, having taken the time to do so, that adopted children, that an insurance company may refuse to insure an adopted child between the time the adoptive parents take custody and the weeks and months between until the formal adoption. Insurance companies are required by law, to insure a newborn of covered parents, however badly affected by illness or deformity at the instance that it is born, but an adopted child is uninsured for weeks and months, and that just is not right. There is a risk to an insurance company in insuring newborns of course, but they are required to do it by law. There is a risk to insurance companies of insuring children who are adopted, but they ought to for a matter of consistency, and I think, a decent policy, be

required to cover those children just on the same basis that they cover newborn children. So we will be drafting an amendment which will be up, I think, on Tuesday. I hope that Senators will support it.

RESOLUTION

Senator Currier moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that when we adjourn, we adjourned until Tuesday, April 14, 1992, at 1:00 p.m.

Adopted.

RESOLUTION

Senator Currier moved that the business of the day now being completed, that the Senate now adjourn until Tuesday, April 14, 1992 at 1:00 p.m.

LATE SESSION

Third Reading and Final Passage

HB 317-FN, an act relative to a minimum service retirement allowance for group II members and making an appropriation for administrative costs.

HB 321-FN, an act relative to small employer insurance.

HB 504-FN, an act requiring licensure of medical utilization review entities.

HB 632-FN, an act relative to administrative due process hearings concerning special education disputes and establishing a committee to study alternative methods of dispute resolution for the special education of educationally disabled students.

HB 1130, an act relative to ejecting persons from racetracks whose presence is inconsistent with proper conduct of a race meet and relative to unclaimed pari-mutuel pool tickets.

HB 1135, an act relative to liquidation under the supervision of the bank commissioner.

HB 1137-FN, an act relative to nondepository first mortgage bankers and brokers.

HB 1139-FN, an act relative to persons licensed to offer second mortgage home loans.

HB 1141, an act relative to retail installment sales of motor vehicles.

HB 1142, an act permitting the bank commissioner to delegate duties and responsibilities.

HB 1175, an act creating a committee to study medical liability insurance in New Hampshire.

HB 1191, an act prohibiting insurance companies from nonrenewing a homeowner's policy solely on the basis that a claim has been filed.

HB 1196, an act clarifying the amount to be paid from the firemen's relief fund in the event of a claim.

HB 1222-FN-L, an act authorizing schools to modify authorized regional enrollment area (AREA) agreements.

HB 1295, an act prohibiting discrimination in insurance policies against elected or appointed officials.

HB 1330, an act prohibiting certain credit card practices involving providers of travel services.

HB 1339, an act requiring the division of human services to report certain obligors to consumer reporting agencies.

HB 1374, an act establishing a task force on women at risk for alcohol and other drug abuse during pregnancy.

HB 1390-FN, an act providing a 5 percent cost of living adjustment for teacher members of the retirement system and providing a 10 percent cost of living adjustment for teachers retired prior to July 1, 1957.

HB 1407, an act repealing laws relative to abortion.

HB 1408-FN-L, an act relative to technical changes in the unemployment compensation law and increasing the amount of taxable wages.

HB 1448, an act relative to the loyalty oath for teachers.

HB 1449-FN, an act relative to the cost of publishing school laws.

Senator Currier moved that we adjourn.

Adopted.

Adjournment.

April 14, 1992

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dawn Berry, Senate guest Chaplain.

Holy One, we were teased by the burst of spring that retreated once again into winter like cold, frozen ground, and blustery days. Spring in New Hampshire causes us to learn that "for everything there is a season and a time for every matter under heaven." The

season cannot be rushed, nor can the twenty-eight bills that face these Senators. Like the Merrimack, time flows at its own pace. Help us to dwell in time, rather than simply mark time. Guide us in your good purposes that time might be fulfilled, rather than exploited. And, in this holy time when Jews prepare for the Passover and Christians for Easter, remind us again and again that you are the God-with-us for all time.

Amen

Senator Heath led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

COMMITTEE REPORTS

HB 1140, an act relative to exempting New Hampshire banks from acquisitions by out-of-state banks. Banks committee. Ought to Pass with Amendment. Senator Disnard for the committee.

5754L

Amendment to HB 1140

Amend the title of the bill by replacing it with the following:

AN ACT

relative to exempting New Hampshire banks from acquisitions
by out-of-state banks and bank holding companies.

Amend RSA 384:47-a as inserted by section 1 of the bill by replacing it with the following:

384:47-a Exemption from Acquisition; Procedure.

I. The board of directors or trustees of a New Hampshire bank or bank holding company may adopt a resolution to exempt such bank or bank holding company from the acquisition provisions of RSA 384:44-54. If the board of directors or trustees adopts such a resolution and files a certified copy of it with the bank commissioner, such bank or bank holding company may not be acquired nor make an acquisition under RSA 384:44-54. Such resolution shall become effective upon filing with the bank commissioner.

II. A bank or bank holding company which elects to exempt itself under paragraph I of this section may at any time terminate and revoke its election upon adoption of a resolution to such effect made by its board of directors or trustees. A certified copy of such resolution shall be filed with the bank commissioner and shall become effective upon filing.

AMENDED ANALYSIS

This bill establishes a procedure by which the board of directors or trustees of a New Hampshire bank or bank holding company may elect to exempt such bank or bank holding company from acquisition by out-of-state banks.

This bill was requested by the banking department.

SENATOR DISNARD: The committee is recommending ought to pass with amendment. If you are interested in the bill, it is now on page four of the calendar. The bill is a miss no more if you read the analysis. All that this bill does is it is an expression of intent. The bill is requested by the Banking Department, and they want our bank directors or trustees to vote once to be exempt from out-of-state acquisitions. Currently, the banks have to renew their exemption request yearly, and there is a lot of confusion when the renewal is due. However, I think that it should be understood, with this bill which is now the amendment, the directors or the trustees can vote once to be exempt and file the necessary resolution with the Banking Department; however, there is nothing in this bill that precluded them from voting to give up their exemption at any time. They would merely have to notify the Banking Department that they no longer wish to be exempt from out-of-state acquisitions, and the amendment also adds the words 'bank holding company'.

Committee amendment adopted.

Ordered to third reading.

HB 1178, an act extending the appropriation for the Manchester district court facility. Capital Budget committee. Ought to Pass with Amendment. Senator Colantuono for the committee.

5760L

Amendment to HB 1178

Amend the title of the bill by replacing it with the following:

AN ACT

extending appropriations for the Manchester district court facility
and for the department of environmental services.

Amend the bill by replacing all after the enacting clause with the following:

1 Appropriation Extended; Manchester District Court Facility.
Amend 1991, 319:2 to read as follows:

319:2 Appropriation; Department of Administrative Services. The

sum of \$250,000 is appropriated to the department of administrative services for the fiscal year ending June 30, 1992, for the site location, **land acquisition**, design, architectural plans [and] **or** rehabilitation and renovation of a new Manchester district court facility. In planning this facility, the department of administrative services shall consider issues including cost, accessibility, and needs for space now and in the future for such purposes as storage of records, building security, separation of adult and juvenile detainees, and private conference rooms. The department of administrative services shall adopt plans for the facility after consultation with the current Manchester district court justices and the capital budget overview committee. **This appropriation shall not lapse until June 30, 1994.**

2 Appropriations Extended. The following appropriations are extended to June 30, 1993:

I. The appropriations made to the department of environmental services, water resources division in 1989, 367:1, IV, A, 1 as amended by 1991, 351:27, II(g) for small watershed programs.

II. The appropriation made to the department of environmental services in 1989, 367:16 for a 20 percent matching grant for the federal funds to be deposited into the state water pollution control revolving loan fund established by RSA 486:14 (formerly RSA 149-B:12).

3 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill extends the appropriation for the Manchester district court facility until June 30, 1994. The bill also permits the appropriation to be used for land acquisition for the facility.

The bill also extends certain appropriations for the department of environmental services.

SENATOR COLANTUONO: This bill simply extends for two-years, the appropriation of the \$250,000 to look into site location, etc. for the new Manchester District Court. They are having trouble finding a location, so that is why this has to be done. The amendment on page five of the calendar, simply changes some of the drafting problems with the original bill.

Committee amendment adopted.

Ordered to third reading.

HB 1227-A, an act decreasing the bonding authorized relative to the Manchester access ramp project. Capital Budget committee. Ought to Pass. Senator Roberge for the committee.

SENATOR ROBERGE: Mr. President and members of the Senate, this bill eliminates \$650,000 in general obligation bonds and they were never issued anyway. We move ought to pass.

Adopted.

Ordered to third reading.

HB 1361, an act establishing a committee to study state motor vehicle fleet management. Capital Budget committee. Ought to Pass with Amendment. Senator Oleson for the committee.

5780L

Amendment to HB 1361

Amend paragraph II of section 1 of the bill by replacing it with the following:

II. The committee shall review the state motor vehicle fleet, and such review shall include but shall not be limited to:

(a) The purchase and acquisition of motor vehicles, including but not limited to automobiles and pickup trucks.

(b) The upkeep and maintenance of motor vehicles, including but not limited to automobiles and pickup trucks.

(c) The distribution or assignment of motor vehicles, including but not limited to automobiles and pickup trucks, to state agencies.

(d) The exemption of certain state motor vehicles from any management system developed under this study.

(e) The potential of converting the fleet to environmentally sensitive fuels.

Amend paragraph IV of section 1 of the bill by replacing it with the following:

IV. The members of the committee shall be as follows:

(a) Two members of the house of representatives, appointed by the speaker of the house.

(b) Two members of the senate, appointed by the senate president.

(c) Two public members with experience in or demonstrated knowledge of fleet management, appointed by the governor.

(d) A representative of the governor's office, appointed by the governor.

(e) The commissioner of transportation or designee, who shall be a non-voting member.

Amend the bill by replacing section 2 with the following:

2 Effective Date. This act shall take effect upon its passage.

SENATOR OLESON: This is one of those comparatively simple bills. This sets up a committee and it is suppose to be composed on the committee, two members of the House and two members of the Senate and two public members with experience with fleet manage-

ment, and a representative of the Governor's Office. What they are suppose to do and report out on November 2 of this year, so they haven't too much time to work on this. What they are suppose to come up with is how and where to purchase acquisition of motor vehicles, the upkeep and maintenance of motor vehicles, and the distribution and assignment of motor vehicles and the exemption of certain state motor vehicles. Also the amendment was put on, and one of the things that they are suppose to study which was touched on some years ago, was the use of some kind of fuel outside of gasoline. The way that it looks through the federal fund, sooner or later, we are going to have to face up to the fact for environmental purposes, that gasoline will not be our prime mover of our vehicles, but some kind of a substitute. The last time we put a label on it, it was gasoholic. As I said before, this is suppose to be reported out on November 2, 1992, so I would like to see a hasty acquisition and a hasty passage of this bill so that these people can be appointed and go to work. Thank you very much.

Committee amendment adopted.

Ordered to third reading.

HB 1492-A, an act eliminating the capital appropriation for the demolition of the Walker building. Capital Budget committee. Ought to Pass. Senator Roberge for the committee.

SENATOR ROBERGE: Mr. President and members of the Senate, we felt, the committee felt, that appropriating the \$1,800,000 this year, there was no reason to demolish the building this particular year; and there is a study committee and they are going to study the whole situation of the Walker Building whether it should be demolished or rehabilitated.

SENATOR HOUGH: Not to conflict with Senator Roberge's report for the committee, but I would tell you that I voted against this bill in committee and I feel the same today. I understand that this bill is going to pass and it is going to rescind our prior action where we voted to raze the Walker Building. I would tell you that I recognize that this is the resolution, but I am still of the opinion that the more efficient way to go is to tear this building down. True, you are not going to be spending \$1,800,000 to do that at this point in time. The next move of foot is going to be a significant amount of money. It may not be the \$12,000,000 that was bandied around a year ago, but it certainly will be \$5,000,000. There is asbestos that has to be removed and we are going to be spending money ultimately to resurrect or to maintain a shrine, and if that is the will of the legislature, I

have no problem with it, but it is going to cost us a significant amount of money if we go in the direction that this report would indicate that we are going.

SENATOR MCLANE: I felt that this issue of the Walker Building was hurriedly passed over in the last session. It turned out that it was maybe some sort of deal in the city of Concord, and I felt that it was a fait accompli and so we passed it. Since that time, the state architectural association has written to the Governor and has asked him if they could do a study of the situation on the Walker Building. I believe that despite the fact that the Governor didn't even answer their letter, that study should go forward. For this reason, I feel that we should pass this bill and not spend \$1,800,000 to tear down a building that we don't know what its value is or what the use would be of that property.

SENATOR NELSON: I just wanted to rise in support of Senator McLane's remarks and let you know that I believe that she is correct. Last year it was hurried through, we did not have the kind of information that we had this year. We had much more testimony. I have something like 27 pages of notes. As Susan pointed out, some of the details, there is a study bill that is in another committee, they will do more detailed analysis of that situation. So I am in strong support of this legislation.

Adopted.

Ordered to third reading.

HB 1468-FN-LOCAL, an act relative to special education catastrophic aid. Education committee. Ought to Pass. Senator Disnard for the committee.

SENATOR DISNARD: This is a bill that you all may be asked questions about if you have a small community. Therefore, I might take a little longer than I usually do to explain it. Presently, under catastrophic aid the school district is responsible for 3-1/2 times, up front, the cost of the state average of educating that child, which is now about \$17,000 or \$18,000. The state is responsible for the next 80 percent. After that is paid, whatever is left, the school district is responsible for 20 percent. So you have 3-1/2 times the school district, 80 percent of what is leftover for the state and 20 percent of the remainder of that for the school districts. However, you take the town of Nelson in Senator Bass's district, and Nelson has a special education child, \$254,000. Now the state does not reimburse that money until the following year. In other words, the state does not reimburse the school district maybe up to 18 months after the money is spent. What this bill does and there will be a floor amend-

ment, and I will explain the floor amendment as I go along whether it is correct or not, so that you will have a better understanding. This bill allows a school district to borrow the money that the state is going to reimburse them. There will be a floor amendment however, that after the first 10 times, \$48,000, the cost of financing will also be paid for by the state. Now do you understand what is happening here? The school district will be authorized to borrow the money, most of you may not know that some school districts at the annual district meetings, such as in Nelson, are refusing to pay through the taxes, the money up front for the state. Now a school district cannot spend any money that is not authorized at the district meeting, so now we have a dilemma. This is an answer which the Appropriations committee of the House agrees with after conversations this morning, the parents of these children and the communities, no one opposed the bill. Do you understand what I am saying? They can get authorization to borrow the money after the first 10 times the average cost, the state will pay for the finance cost. Now you may be saying, well why doesn't the state pay everything up front? We are talking \$8,000,000 for next year and \$8,000,000 that they have to pay for this year, the state doesn't have the \$16,000,000. I will answer any questions, because it is important that you understand it. It is to help the school districts, it is to have the state live up to their obligation and the school districts would be reimbursed.

SENATOR NELSON: Senator Disnard, would you just go over again on page three, IV, why it is important to have 10 times, rather than \$20,000? I just want to understand this.

SENATOR DISNARD: If it is \$20,000 or \$10,000 or \$30,000 or whatever it would be, that number would have to be changed each year. When we set the first formula, we put 3-1/2 times, rather than an amount of money, so that as inflation comes along, or decreases, it takes care of that without addressing it each year. You don't understand me?

SENATOR NELSON: Well, I didn't hear everything.

SENATOR DISNARD: Can I try again?

SENATOR NELSON: Mr. President, would it be okay?

SENATOR DISNARD: Right now the state average cost is around \$46,000 or \$47,000, they anticipate the state average cost next year will be about \$48,000, I mean \$4,800, if we put, which is about \$18,000. If we put \$20,000, the following year or the year after that, then the law or the statute would have to keep changing the \$20,000 to \$30,000 or whatever it is. This just keeps a constant 10 times or 3-1/2 times.

SENATOR NELSON: On page 2b, why are you . . . this is new language and I am wondering because it is all italicized, it all appears to be new language even though it is 3-1/2 times. "The school district shall be liable for 3-1/2 times the estimated", I know that estimated is a new word, "plus 20 percent of the additional cost up to 10 times", could you just remark on that?

SENATOR DISNARD: That is the new language?

SENATOR NELSON: Right.

SENATOR DISNARD: Community under 'b', would only be responsible up to 10 times the state average cost. Say it was \$4,800, the school district would never be responsible for more than 10 times, which would next year be \$48,000.

SENATOR NELSON: But the second half of the sentence says, "plus 20 percent of the additional cost up to 10 times." So where is the 20 percent, is that new language?

SENATOR DISNARD: No. First we have . . . Nelson has a child that cost \$254,000, they pay 3-1/2 times and the state theoretically, will reimburse them 80 percent, then they have to borrow because they are responsible for 20 percent of what is left, that is what this refers to.

SENATOR NELSON: I guess what I am struggling with is the word 'estimated', I guess. I mean, there is just so many other bills that we have coming in. In the Insurance for example, we are changing it from an estimate to the actual cost, rather than the possible loss, we want the actual figures. Here in Education, we are going to the estimated state average. Is that going to help the locals or help the state?

SENATOR DISNARD: It is going to help the locals.

SENATOR NELSON: Okay.

SENATOR DISNARD: I think that this is the bill that we already approved or this idea, that the state speedup the reimbursement so the communities could estimate.

SENATOR NELSON: Thank you.

SENATOR MCLANE: Senator Disnard, I said that I had just been to two schools and I was so impressed with the Broken Ground School in Concord, the number of handicapped children that were part of the school scene. There was a little boy on a frame that tipped up, all tied up to the frame and they all had aids with them. I was very impressed by that, and I wonder how does a school district decide whether to keep those children within . . . it seemed to me so

obvious that this was good for the kids who were handicapped and good for the kids that were dealing with them. How do they decide to send them out of state for \$254,000 or keep them in state and who pays?

SENATOR DISNARD: First of all, the first part of your statement, not your question, yes, you should be proud of the program at the Broken Ground School in Concord . . .

SENATOR MCLANE: It was very, very impressive.

SENATOR DISNARD: Secondly, usually they are placed out of state when there is not an in-state placement for a similar cost. Then you have the parents involved for approval and the courts, but the very simple answer is, usually there is nothing in state that will handle it for that amount of money, the program established.

SENATOR BASS: I am in support of the bill and I am also in support of the Disnard floor amendment, which I guess is yet to be offered. I only want to commend and praise Senator Disnard for having worked hard on what, from my perspective at least, it appeared to be essentially an unsolvable problem. The problem existing in Nelson is not new, there are about 400 people in town and the tax rate is dramatically affected by this situation and there didn't seem to be any solution. I think that Senator Disnard's experience in the education area along with his commitment to working with this problem is something that should be commended. I urge the rest of the Senate to support his amendment and the passage of this bill.

SENATOR PRESSLY: I, too, rise in support of this. I think this bill addresses one of the major problems facing the local communities and that is the special education. My understanding is that the formula will allow the local communities to budget a little bit better and they will get a small measure of relief. However, it is my hope and the hope, I think, of everyone that a long term solution and new ideas are being sought in this special education category. I do know from my city, and from all of my towns that this is one of the most difficult areas for them to address, not only emotionally but financially. So thank you for the effort.

SENATOR DISNARD: Thank you, Senator Pressly. The President and the Speaker of the House could establish a committee to work for the ensuing year and try to allow the people to know and to believe that the Senate of the state of New Hampshire is concerned about their rising property costs because of this and somehow set up some type of a task force, not just of legislators, maybe no legislators, but the experts, to really determine an answer to this mess. For example, we do not have enough pressure on Senator Rudman,

Senator Smith, Congressman Zelif or Congressman Swett to see that the federal government pays the 40 percent of which the law calls for, for the handicapped cases, rather than the six or seven percent, and is there a less expensive way of doing it. That would be a good job for a task force. Thank you.

Senator DISNARD: Mr. President, I assume that you and all of the Senators, have the floor amendment 5797L, which I mention that the finance costs after the first \$48,000 borrowed, would be reimbursed the responsibility of the state.

Senator Disnard offered a floor amendment.

5797L

Floor Amendment to HB 1468-FN-LOCAL

Amend the bill by replacing section 3 with the following:

3 New Paragraph; Costs of Catastrophic Special Education Aid. Amend RSA 186-C:18 by inserting after paragraph VII the following new paragraph:

VIII. A school district shall raise and appropriate funds reflecting the total cost in meeting catastrophic special education student costs as provided under RSA 186-C:18, including the school district and department of education liability. A school district may issue reimbursement anticipation notes as provided for in RSA 198:20-d to be redeemed upon receipt of reimbursement from the state. The department of education shall be liable for the cost of borrowing such moneys over 10 times the estimated state average expenditure.

AMENDED ANALYSIS

This bill allows payments to school districts using estimated expenditures of the school districts.

The school district will be liable for 3-1/2 times the estimated state average expenditure per pupil plus 20 percent of the additional cost up to 10 times the estimated state average expenditure per pupil. The department of education will be liable for 80 percent of the cost above 3-1/2 times the estimated expenditure per pupil up to 10 times the estimated state average expenditure per pupil. The department will be responsible for all costs in excess of 10 times the estimated state average expenditure per pupil.

The current law provides payments to school districts by calculating the state average expenditure per pupil for the school year preceding the year of distribution.

The bill deletes the state minimum appropriation to districts for special education catastrophic cost increases.

This bill requires any individual education plan which includes a residential placement, and for which total education costs exceed 10 times the estimated state average expenditure per pupil, to be approved by the special education bureau of the department of education.

This bill also requires a school district to raise and appropriate funds reflecting the total cost of meeting catastrophic special education student costs and to issue reimbursement anticipation notes in anticipation of reimbursement from the state. The department of education shall be liable for the cost of borrowing such funds.

Floor amendment adopted.

Referred to finance (Rule #24).

HB 1129, an act designating the insurance department as the regulatory body for approval of motor vehicle warranty agreements. Insurance committee. Ought to Pass. Senator Russman for the committee.

SENATOR RUSSMAN: This as it now starts is a relatively simple bill dealing with automobile warranties and the authority for approving them and the various agreements and surety bonds connected with them. What it does now is that it changes it from being in two different departments, the Attorney General's Office and the Insurance Department, to the Insurance Department for the regulation. It is a good bill, it will simplify it and make it easier for all of the parties involved on both sides of the issues, so we would urge passage of the bill as it presently is. I think that you will probably hear from an amendment that we will talk about after it is presented.

SENATOR SHAHEEN: Everyone ought to have a floor amendment to HB 1129 in front of you. It is amendment #5746L. This amendment is designed to clarify liability in cases where you are renting a car while your own vehicle is being repaired or serviced. It comes as the result of a New Hampshire Supreme Court case which raised some questions about who is liable for insurance for a rent-a-car. I will give you my own personal example of this. Last May, my own car was being serviced because it had a dent in the back, so I went in and rented a car. When I rented the car, I was asked at the time if I wanted my own personal policy to cover me or if I wanted to take out insurance from the rental car company. I figured that I have already paid for my own policy, right? It was good enough to cover in this circumstance and why should I pay again for additional coverage, so that is what I did. In June, the Supreme Court issued a decision that raised questions about who was liable in that kind of a situation. This amendment is designed to say that if you have your

own personal insurance policy that covers you, if you go to rent a car while your own car is being serviced or repaired, then you can be covered under your own personal policy without requiring that you take out extra insurance by the rental car company or without requiring that rental car company pay for an insurance policy to cover you in that situation. There were three issues that were raised at the hearing on this amendment that have been addressed in this floor amendment, so that it has changed slightly from the amendment that was heard. The first one says that the amendment will cover any companies renting cars in New Hampshire. The original amendment covered only New Hampshire based companies, so that is changed. It now covers any companies renting cars in New Hampshire. The second thing that it does, is define 'temporary replacement vehicle', which is the term used to talk about the car that you are renting when your own is being serviced. The third thing that I think was raised that I believe is clearly defined in the amendment, is whether there is a gap in the coverage. I think that the amendment is very clear, there is no gap in the coverage. If you have your own policy, you are covered. If you lied about having your own policy, if there is some question about that, then the rental car company covers you under their policy. I would urge the body to adopt this floor amendment.

Recess.

Senator Currier in the Chair.

Senator Shaheen offered a floor amendment.

5746L

Floor Amendment to HB 1129

Amend the title of the bill by replacing it with the following:

AN ACT

designating the insurance department as the regulatory body for approval of motor vehicle warranty agreements and relative to replacement motor vehicle liability requirements.

Amend the bill by replacing all after section 3 with the following:

4 Temporary Replacement Vehicle Liability Coverage. Amend RSA 259:61, II to read as follows:

II. Which further provides indemnity for or protection to the named insured and to the spouse of such named insured as insured if a resident of the same household, or the private chauffeur or domestic servant acting within the scope of the employment of any such insured with respect to the presence of any such insured in any other

motor vehicle, from liability as a result of accidents which occur in New Hampshire due to the driving of any motor vehicle, trailer, or semi-trailer not owned in whole or in part by such insured; provided, however, the insurance afforded under this paragraph applies, **except as to temporary replacement vehicles**, only if no other valid and collectible insurance is available to the insured; **and provided further, the insurance provided under this paragraph shall, in the case of temporary replacement vehicles, apply as primary coverage.**

5 New Paragraphs; Temporary Replacement Vehicle Liability Requirements; Temporary Replacement Vehicle Defined. Amend RSA 259:61 by inserting after paragraph III the following new paragraphs:

IV. For a motor vehicle liability policy issued to a motor vehicle leasing company and only as applicable to motor vehicles, trailers or semi-trailers rented out as temporary replacement vehicles, the requirements and minimum coverages described in paragraphs I and II, and in RSA 264:14-16, 18 and 19 shall not apply to lessees, renters, operators or occupants of the temporary replacement vehicle if:

(a) The operator of the temporary replacement vehicle maintains in force a motor vehicle liability policy which meets the requirements of and provides at least the minimum coverages described in paragraphs I and II, and in RSA 264:14-16, 18 and 19, or is proven to be self-insured or has posted proof of financial responsibility in levels at least equal to the minimum coverages described in paragraphs I and II; and

(b) The lessee or renter agrees in the original lease or rental contract that the leasing company's insurance policies do not afford such coverage.

V. For the purposes of paragraphs II and IV, "temporary replacement vehicle" means any motor vehicle, trailer or semi-trailer not owned by the renter thereof, while temporarily used with the permission of the owner as a substitute for the renter's owned vehicle, when that owned vehicle is withdrawn from normal use because of its breakdown, repair, servicing, loss or destruction.

6 Effective Date.

I. Sections 4 and 5 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill transfers from the department of justice to the insurance department the authority for approving certain motor vehicle warranty agreements and surety bonds. This bill also exempts lessees,

renters, operators or occupants of any temporary replacement motor vehicle from replacement motor vehicle liability policy agreements under certain circumstances and defines "temporary replacement vehicle" for that purpose.

SENATOR PODLES: Senator Shaheen, could you give me a definition of "temporary replacement vehicles"?

SENATOR SHAHEEN: If you look on page two of the floor amendment, V, it defines 'temporary replacement vehicle'. I read it as follows: For the purposes of paragraphs II and IV, "temporary replacement vehicle" means any motor vehicle, trailer or semi-trailer not owned by the renter thereof, while temporarily used with the permission of the owner as a substitute for the renter's owned vehicle, when that owned vehicle is withdrawn from normal use because of its breakdown, repair, servicing, loss or destruction.

SENATOR PODLES: Thank you.

SENATOR PRESSLY: Senator Shaheen, bear in mind that I am just seeing this for the first time. The example that you have given is when a policyholders own vehicle is not functioning and they are renting for the purpose because their own vehicle is out of commission.

SENATOR SHAHEEN: Right.

SENATOR PRESSLY: How will this apply when the insured is traveling and for choice, chooses to rent a car for a period of time in another place?

SENATOR SHAHEEN: This amendment doesn't apply at all in those circumstances. The rental car company's policy applies.

SENATOR PRESSLY: So this bill and the amendment only applies in the circumstance when the insured persons own vehicle is not able to be driven or for one reason or the other?

SENATOR SHAHEEN: That is correct. It only applies in cases where you have a temporary replacement vehicle as defined in this amendment.

SENATOR PRESSLY: Thank you.

SENATOR BASS: Senator Shaheen, you mentioned that if the lessees insurance wasn't effective or was canceled or one thing or another, that the lessors policy would cover in that event. Where does it say that and how would we be assured that that would be the case?

Recess.

Senator Dupont in the Chair.

SENATOR SHAHEEN: Senator Bass, I have found the answer to your question. Apparently the law that requires the rental car company to provide insurance, covers except in the circumstances that are provided for in this amendment, so it is already covered under existing law.

SENATOR COLANTUONO: Senator Shaheen, your answer might have covered this question, but I would like to follow that up. Specifically if a person comes in and rents a car, certifies that they have insurance coverage and they are renting the car for 30 days while theirs is getting fixed and so forth, and during that 30 days, their insurance lapses or gets canceled or is somehow terminated for some other reason and then they get into an accident, what does this bill say about whether there is insurance available?

SENATOR SHAHEEN: My understanding is that under those circumstances, the rental car company's insurance goes into effect and covers any liability.

SENATOR COLANTUONO: Could you point out where in the bill that it says that though?

SENATOR SHAHEEN: Well, I think this is again in response to Senator Bass's question. That particular circumstance is not in this bill, because that situation is already covered under existing law. All that this does is provide for, if you are going in for a temporary replacement vehicle and you have your own insurance, you would be covered under your own insurance as a result of the contract that you have signed. If for some reason that you have lied about your insurance, the circumstances that you described happens, then the rental car company's insurance kicks in.

SENATOR COLANTUONO: Under existing law that this amendment is designed to overturn. The rental company's policy is first dollar coverage and if there is an accident in the rental car, the rental cars policy responds first, if the damages are too great for that policy, then the renters policy would kick in. So basically what this is doing is making a greater liability on the individual renters policy, the individual person like ourselves, which is going to cause an increase in their insurance. Do you have any idea how much an average persons policy will increase because of this bill?

SENATOR SHAHEEN: It is my understanding that that is not in fact what would happen, Senator Colantuono. In fact, this prevents the consumer from having to pay twice for the same insurance that if you have already got insurance coverage that you have already paid for, and you go in and rent a car because your own is in the garage, you don't then have to pay again to get insurance on the car that you are driving because your policy already covers you.

SENATOR COLANTUONO: Have you asked the question of the people who are promoting this, whether it will increase the cost of the average auto liability policy owner?

SENATOR SHAHEEN: Yes, and the answer was negative.

SENATOR COLANTUONO: Okay, did you ask the Insurance Department that question?

SENATOR SHAHEEN: I did not.

SENATOR COLANTUONO: Okay. This bill says that the leasing company, the requirements of minimum coverage will not apply to the leasing company provided that the owner has what is minimum coverage. So for those people out there traveling the roads who might get struck and injured or killed or have disastrous consequences from someone driving one of these cars, can you tell us what the minimum coverage of insurance available to those individuals will be if they have to make a claim?

SENATOR SHAHEEN: Well there is a requirement, I believe, in New Hampshire for minimum motor vehicle liability policy that requires \$25,000 for injury or death and \$50,000 for injury or death, resulting from a single accident, \$25,000 for property damage. I would assume that it would be that.

SENATOR PODLES: Senator Shaheen, would you then agree that your amendment shifts the primary responsibility onto the New Hampshire motorists? You are just turning it around, the primary responsibility onto the New Hampshire motorists?

SENATOR SHAHEEN: No. It is my understanding that in fact, this is what has been in affect for a long time and that it has only been called into question as the result of the Supreme Court case that was handed down last June. As I explained to you in my own personal example, when I went in to rent a car before that Supreme Court case, I was asked if I wanted my own policy to cover me or if I wanted to buy extra insurance to be covered, and my answer was that I wanted my own policy to cover me, because why should I pay twice? I think that that is exactly the kind of situation that is described in this amendment so that it doesn't change things at all.

SENATOR PODLES: Senator Shaheen, if I went to a business that rented cars and repaired cars and I left my car in that garage for repairs for two or three days and I wanted to rent a car, I now have insurance coverage for my car, but must I also have insurance for that other car that I am going to be taking out?

SENATOR SHAHEEN: No. In fact, that is what this attempts to clarify. This points out that if you already have insurance for your

car and you are just getting a temporary replacement vehicle for your car, you are already covered, because you are covered under your own policy.

SENATOR PODLES: In other words, my insurance will be covering my car and also that car?

SENATOR SHAHEEN: That is right, because your car will not be on the road.

SENATOR PODLES: So it is shifting that primary responsibility onto me, am I correct?

SENATOR SHAHEEN: But you already had that responsibility, because your policy hasn't changed in terms of coverage. It is covering you whether you have your own car or whether you have the car that you are renting while your own car is in the garage.

SENATOR PODLES: But isn't it true that at the present time when I would take out a car, when I would rent it because my car is in repairs, that that business would insure the car that I am to drive as a substitute car?

SENATOR SHAHEEN: It is my understanding that the only time that that has been called into question has been as the result of the Supreme Court case last June and that it has only been that interim period of time that there has been any question about whether your own policy had to cover or whether the rental car company's policy had to cover.

SENATOR PODLES: Would you believe that the Supreme Court case just verified what was already in the law?

SENATOR SHAHEEN: It is my understanding that it didn't, that it reversed what was already in the law or at least what was already operating practice.

SENATOR HOUGH: I am going to support Senator Shaheen's amendment. A month ago you saw Senator Shaheen rise on the floor of this Senate and she indicated that her husband was the Judge at the Durham District Court and she moved to remove the Durham Court from the district court unification bill. She acknowledged that that might be a perception of a conflict. She was motivated by her overriding desire to take care of the needs of the university family. I would tell you, and it is no secret to any of you sitting here in this room that I make my living selling automobile insurance. For the 20 years that I have served in the House and the Senate, I have been very careful not to vote on insurance legislation. But in this instance, I am going to vote for Senator Shaheen's amendment and I will tell you this: First of all, it is much to-do about nothing. The people that

I represent and the people who vote for me in my district, buy automobile insurance, and when they buy it, they buy it for 365 days of the year. For those times that their automobile is out of use and in a repair shop and they use a rental car under those circumstances, the premium that they have paid for 365 days of insurance should be sufficient to protect them in those instances. I wasn't even aware of this amendment until I walked into the State House this morning and I was approached by a representative of the casualty industry. I am sure and this is a strange situation, but it is holy week and anything can happen. The trial lawyers I am sure, would want to be against this also, so when you have the unholy alliance of the casualty insurance and the trial lawyers speaking against an amendment, I would tell you that you ought to vote for it. The consumers in this state of my insurance . . . and Senator Podles, I think that you told me that it was 94 percent of the automobiles in the state of New Hampshire are insured, and I know that we are concerned and Senator Fraser has been concerned about the question of mandatory insurance. There is plenty of insurance out there. This is a reasoned amendment, it makes sense and you should vote for it because it is in the best interest of the consumers in your district. I will support it. Mr. President, I will take no questions, because quite frankly, Senator Shaheen is doing a very good job and she is more knowledgeable than I am.

SENATOR RUSSMAN: I rise in opposition to the amendment. When this was first presented in our committee, it just dealt with Merchants Motors. I guess you could call it a bonus bill, the amendment. There was no support for it in the committee, so at the end of the hearing they withdrew the amendment, before we voted on it, because they realized that it wasn't going to enjoy any support. They came back, and at that time it was only for in-state people, so they said well, we will make it for everybody that does business here. But, I think to me, it is a step backwards in terms of what the Supreme Court did was make right really, what Merchants had hoped would be the other way all along and when it tried to take the position was all the way along since they have been renting cars. I think that there are a number of issues that are a little bit unsettled. In other words, let us suppose that you rent this car and your car is repaired, and you get the car home from the repair shop and then you follow your son or your daughter back in the rental car to get picked up at the rental agency and you have your own car. You are going to have a real gap in the coverage, so you are not going to have the insurance that you think that you have. If, let us suppose, you bring the car home from the repair shop and somebody else in the family happens to get into the rental car and takes it down for a loaf

of bread and hits somebody or gets hit or what have you, and your car happened to be sitting at home now, because it is all repaired, you are going to have a problem with the gap in your insurance. So there is no question that there is going to be gaps in the insurance policies in the coverage that you want. So if you want to, what I consider to take a step backwards in terms of the insurance law in New Hampshire, then you ought to support the amendment. At the same time, if you are concerned about the potential gaps that might exist when you bring your repaired car home and you are either returning it or somebody else uses it, or what have you, and the fact that there is going to be a real argument over whether or not there is insurance. Frankly, if you have both cars going down the road, they are not going to both be insured the way that you would like them to be insured. So if you are returning it or what have you, you have a potential serious problem. Particularly in snowy weather or what have you, when a lot of accidents happen. I haven't done an awful lot of work in terms of where the votes are on this particular issue and I don't know, but I think in terms of constituency, one of the other things that you might find interesting is that when their attorney appeared before us to testify, he talked in terms of \$30 a day, it was going to cost and that is why Merchants was so cheap, they were about \$15 a day and the other people were about \$40 a day to rent a car. As it turned out, upon inquiry from myself, he agreed, his attorney actually showed me a letter finally, that said that it was only going to be \$40 a month per vehicle, which came out to be about \$1.30 a day for additional insurance that you would enjoy and any additional protection that you would have and your family members would have in those matters. If your goal is to see that these companies enjoy an additional benefit in terms of not having to pay a premium and they wait to gamble with the premiums that you have already paid to other insurance companies, then you should support the amendment. I personally can't support it, and I don't think that it is good policy for the state.

SENATOR NELSON: In all fairness, the attorney that appeared before the committee, did take the time to correct the "perception in era" that he made. I have the letter here and I would be more than happy to circulate it so that I believe that the attorney did rectify that particular situation. It is my understanding that he sent a letter to all members of the committee. If you don't have it, please let me pass this on to you. Secondly, I would like to address Senator Russman's remarks about this being a Merchants Motors bill. I did ask that question and they did rectify it in the amendment in that any rental company in the state of New Hampshire can use this particular piece of legislation. In essence, it will apply to all, not just Mer-

chants Motors. So let us remove any thoughts in our minds today that this is a special piece of interest for one company, it isn't, it is for any company in the state of New Hampshire who wishes to use this particular situation. I also talked with some people in my area, I didn't do a major survey as I have done in some areas, but I did talk with people, and they are under the impression now that their own personal insurance does cover them when they take a rental car and in fact, not only are they under the impression, that has been the case. Their insurance covers them when they have rented and they have done it that way, so I just wanted to add those three pieces of information. Thank you, Mr. President.

Senator Blaisdell has moved the question.

Adopted.

Floor amendment adopted.

Ordered to third reading.

Senator Fraser (Rule #42).

HB 1254, an act relative to public employee labor relations board hearings. Insurance committee. Inexpedient to Legislate. Senator Colantuono for the committee.

SENATOR COLANTUONO: At this time, on behalf of the committee, I would like to move to recommit this bill.

MOTION TO RECOMMIT

HB 1254, an act relative to public employee labor relations board hearings.

Adopted.

HB 1254 is recommitted to the Insurance committee.

HB 1172, an act increasing the amount of the homestead right. Public Affairs committee. Ought to Pass with Amendment. Senator Poldes for the committee.

5763L

Amendment to HB 1172

Amend RSA 480:1 as inserted by section 1 of the bill by replacing it with the following:

480:1 Amount. Every person is entitled to [\$5,000] **\$30,000** worth of his homestead, or of his interest therein, as a homestead. The homestead right created by this chapter shall exist in manufactured housing, as defined by RSA 674:31, which is owned and occupied as a dwelling by the same person but shall not exist in the land upon

which the manufactured housing is situated if that land is not also owned by the owner of the manufactured housing.

SENATOR PODLES: Mr. President, HB 1172 increases the amount of homestead rights from \$5,000 to \$25,000. It is a right granted to every homeowner who lives in a primary residence. This is protection from creditors, it is a right from debtors. The idea behind the homestead is to give you some money to start up over again should you go bankrupt or lose your property to creditors through a lawsuit. The last time that this was amended was in 1983, and since then the market is considerably higher than 1983, so the committee amended the bill to \$30,000. We urge the passage of this bill.

Committee amendment adopted.

Ordered to third reading.

HB 1429, an act relative to accounting for land use change tax funds. Public Affairs committee. Ought to Pass. Senator Bass for the committee.

SENATOR BASS: Mr. President, this bill makes a couple of technical accounting changes that were recommended by DRA. The committee urges your support of the committee report of ought to pass.

Adopted.

Ordered to third reading.

HB 1465-L, an act relative to the taxation and transfer of restricted land. Public Affairs committee. Ought to Pass. Senator Bass for the committee.

SENATOR BASS: Mr. President, this bill clarifies an amendment that was made a couple of years ago by the legislature which allows property owners who donate or easements with set asides for future development to have that set aside counted as being in the easement until such time as the actual development takes place. That was the intent of the original bill. All that this bill does is to clarify that intent. The committee urges your support of the committee report of ought to pass.

Adopted.

Ordered to third reading.

HB 470, an act relative to health maintenance organizations. Public Institutions, Health and Human Services committee. Inexpedient to Legislate. Senator Podles for the committee.

SENATOR PODLES: Mr. President, HB 470 prevents HMO's from selectively contracting for pharmaceutical services and it is putting unfair and unnecessary restrictions on HMO industry. They pur-

chase in volume and it makes good business sense. They offer prescriptions at lower prices, only because they can negotiate contracts with pharmacies and they purchase in volume. If they didn't do this higher cost would be passed on to small business owners and their employees through higher premiums. You will never be able to control health care cost if you pass HB 470. The vote was 3 - 2 for inexpedient and I urge inexpedient to legislate.

SUBSTITUTE MOTION

Senator Russman moved to substitute ought to pass for inexpedient to legislate.

SENATOR RUSSMAN: I think that the issue here is really, and this is something that Senator Nelson has talked to me a great deal about and that is whether or not the small pharmacy that you have in your town is going to survive or not. I think what is happening is a practical matter. The HMO's have certainly contracted with some of the larger pharmacies and they have given them a very low price in an effort to get the traffic to come into their store. Well that is all well and good, but you know if you live in a town like I do, a small town like Kingston, and the HMO is contracted to someone over in Exeter, you know a few miles away, we are not going to have a pharmacy in the town of Kingston very long. I think that we talk about health care cost, but the pharmaceutical companies have seen that the health care cost in terms of drugs have gone so high by the time that it gets to that drugstore that that is where the real problem lies in the competitive market, not with the pharmacies who try to sell the prescription drugs for. I think that if a local pharmacy wants to sell at the same price that the contracted store is willing to, then they ought to be able to do that. So we would ask you, as you know the vote was 3 - 2 in committee, and we would ask you to overturn the committees report and vote ought to pass and see that there is a pharmacy in your small town. If an elderly person can walk to the local pharmacy nearby, but they can't get it there, they have to go to the one down the street because that is the contracted place to go to, it is not going to be very fair to those people. At a time where we are trying not to lose more jobs in New Hampshire and see that family businesses are put out of work, I don't think that this is a very good idea and I would urge you to pass this legislation.

SENATOR FRASER: Senator Russman, would you believe that we have one pharmacy in the town of Pittsfield and that that pharmacy is a provider to an HMO, and would you further believe that in most communities where there is only one pharmacy, that pharmacy is selected, obviously, by the HMO to be their provider?

SENATOR RUSSMAN: Well that is great in that respect. That, I think, even adds to the reason that we probably ought to pass this to see that this happens statewide and not just in your town or a few other small towns.

SENATOR COLANTUONO: Senator Russman, my concern is that if you pass this bill what the practical effect would be. So I am going to ask why would any pharmacist put a bid into an HMO to be the preferred provider if this bill passes? I mean, wouldn't it be in their interest just to sit back and wait for someone else to establish the low bid and then jump in at that price? How are they ever going to get a contract anymore?

SENATOR RUSSMAN: I don't know, and I think that quite honestly, I think in the competitive market that we have, matter of fact, well Senator, well I won't say which Senator it was, because his local pharmacist might be here, but one of them said to me that in his hometown he gets a particular drug and it is \$13.20 in that drug-store, the one here in Concord, I think, sells it to him for \$10. Well the competitive market is already dictating what the prices will prevail and won't prevail. I think that it only makes sense to want to try to preserve the convenience and the ability to people in their home communities if they choose to get out of that local pharmacy to be able to go there and have it still be there.

SENATOR BASS: I rise in opposition to the motion made by Senator Russman as ought to pass. I think that he was correct at the very end of his speech when he said that "this was an unnecessary bill", he is right about that. The fact of the matter is, that there seems to be a problem in a particular problem of the state with a couple of pharmacies that haven't been able to get contracts with HMO's and so instead of solving the problem with some other means, they come to the legislature to change the rules. I would hate to see this sort of thing happen in my business if I were contracting with some customer and then I was told, well you can't do that, we ought to change the law, so you have to contract with everybody that you have in a particular area. We talk in the legislature about controlling health care cost, it is a serious problem in New Hampshire and the rest of the country. If we pass this bill, we are in effect, telling the HMO's how they are going to manage their own health care cost and, frankly, I think, that is wrong. I think that if this were a government entity or if we were in the business of controlling this private industry, then we would do so. I don't think that is appropriate for us to move in this direction. It is clear that from the committee hearings that the prescriptions are readily available and, I think, that we are setting a terrible precedent by injecting ourselves into this business at this time, I would urge the defeat of the pending motion.

SENATOR COLANTUONO: When I saw the committee recommendation of inexpedient to legislate, I decided that I was going to stand up and make a motion of interim study, because I think the bill has some germ of good cause behind it, however, it is a bill that you can be easily torn on because both sides have good arguments. On the one side, you have the people who say that you shouldn't let these large HMO's contract with just one or maybe two pharmacies that might not be convenient to the location where most of the HMO members live. They like to do business with their local pharmacist where they are familiar going to and we shouldn't make them change that. But on the other hand, some of the reasons that Senator Bass mentioned and the reason that I mentioned in my question to Senator Russman, that this is going to change the way that HMO's do business and, obviously, not for the better in terms of controlling health care cost. So it is a very, very difficult issue. It is one that is deserving of much more study, I believe, than it's had, and I think, it is one where a compromise solution could be worked out, but to simply say that the pharmacy that has the contract from the HMO and has cut its prices and really honed things to the bone to get that contract and now they have to give its business away to any other pharmacy in the area who can now come in and operate at the same price is unfair to that pharmacy, and it is unfair to the process, and it is unfair to the people trying to keep down health care costs. Ultimately, although it might seem on the surface to be good for consumers, it is ultimately, going to be bad for the consumer because it is going to continue the rise in health care cost. I don't want to see that, but I do want to see some measure pass that can give some relief to maybe that old person who doesn't have a car and can't drive five or ten miles to the preferred provider and might want to walk to their corner drugstore. I mean that is a legitimate concern and I think that we can find ways to resolve that, but I think that it needs more study and a better bill than just the black and white bill that this is. I would like to proceed with ought to pass and then interim study.

SUBSTITUTE MOTION

Senator Colantuono moved to substitute interim study for inexpedient to legislate.

SENATOR NELSON: What is the motion before us, Mr. President?

PRESIDENT DUPONT: To send this bill to interim study.

SENATOR NELSON: Absolutely not. Let us get a few things straight today as we use all these terrific buzz words. How about small businesses? Do you remember small business, the crew that

we just passed a \$95,000,000 package by our Senate President, why small businesses, why put our people back to work, why help the New Hampshire economy. What are we talking about here? We are talking about pharmacists. What are they? Guess what, small businesses who hire people in your district. Let us talk about deserving of interim study and I want the bill recommitted. Let us talk about that. Hey, do you realize that this is a bill that was referred to the House, how do you like that? They spent all last session studying it. Donnalee Lozeau went to the floor of the House, overturned this bill and had a fairly decent majority of the House members to support this. It was studied, it passed the House. Forget interim study, who has time for it? How do you like this one, 'control health care cost'. I was in the pharmacy this very day this morning and I saw a man who is on medication and I heard what happened to this man, are you ready for this? He usually received 100 pills, new policy, you will now only get 30 pills. You now can run back to the pharmacy for 30 more. Don't we all know you can buy in bulk, it is cheaper to buy 100 pills than it is 30. This is a cost-effective program that, are you ready? Good for whom? The consumer. Less we get caught up in all the jargon that is going around here, this over used control of health care cost is taking its toll on small businesses and consumers in this state, because the poor consumer doesn't have the kind of money to pay for a couple of good lobbyists to spend a lot of time with you people. The last point I want to make is this: did we just pass a bill in this Senate today that dealt with education, and didn't it only address a town like Nelson, New Hampshire, and now I have some people standing up here and talking about germs and legislation coming in here. You have to understand that their arguments don't hold a lot of water. It passed your colleagues in the House, it has been through the committee, it wasn't a solid no vote out of the committee. If it is that bad, just like we say on everything else, 'hey come on back next year and we will fix it'. You have all said it 100 times yourselves, if you haven't said it here, you have said it in a committee hearing. We pass bills, we un-pass them, give it a chance to work. If it doesn't work, fine. But people are getting hurt, believe it or not. Thank you.

SENATOR HEATH: Senator Nelson, my impression is that the present system allows the HMO to go out and get the very lowest bid, and their interest is that they can keep their cost down and sell their program better at a cost to them, and that whatever company sells them the drug or gets the contract, is going to have the lowest price. That seems to me that that is good for the consumer. If this bill passes, essentially, anyone bidding has no motive because every-

body else is going to be able to sell at that same price, so there will be no competition. Isn't that bad for the consumer? How isn't that bad for the consumer?

SENATOR NELSON: Let me answer that by reading you this: "every health maintenance organization which solicits bids from pharmacies for contracts to be preferred providers shall accept and list as preferred providers all pharmacies which meet the bid acceptable", get this, "which meet the bid acceptable to the health maintenance organizations". That is all that this says. This doesn't say destroy the health maintenance organizations.

SENATOR HEATH: No, but who is going to bid . . .

SENATOR NELSON: All the pharmacists who want to . . .

SENATOR HEATH: Wait until I ask the question before you give me the answer.

SENATOR NELSON: Oh, alright, sure. I was getting a little ahead of myself.

SENATOR HEATH: I know you were. Who would bid a low price for furnishing drugs under that system when the bidding is essentially, everybody else is going to get the benefits when they want to on particular drugs?

SENATOR NELSON: I don't know. I didn't really ask anyone, but how do you know the opposite wouldn't occur?

SENATOR HEATH: Because I can see where the motivation is if you are bidding, so that if you get the exclusive rights you will cut it right down to the smallest margin of profit.

SENATOR NELSON: Well this leaves it in the hands of the HMO's still. This is still the, the HMO would accept this. So they will decide, evidently. They, meaning the HMO's, will decide.

SENATOR HEATH: Thank you, Senator Nelson.

SENATOR NELSON: You're welcome.

SENATOR PRESSLY: Senator Podles, in trying to understand just possible scenarios in situations, if the HMO advertises to the world, to every pharmacy that they are now taking bids and they are open to bids, and certain pharmacies win the bids and certain do not, does this mean that those pharmacies who competed and did not meet the price can then come back later and still participate?

SENATOR PODLES: I am not sure about that, Senator Pressly. I am not sure about that. It might, but I am not sure.

SENATOR PRESSLY: Okay. Thank you.

SENATOR HOUGH: I rise against the Colantuono motion of interim study and for the Russman substitute of ought to pass. I am reminded when I look at this piece of legislation, of the interstate banking legislation of four or five years ago. I was party to that and a number of people in this room were, including, Senator St. Jean. Today as I look in my community and I look in communities across the state of New Hampshire, I have to wonder whether or not the actions of this body relative to interstate banking are no longer having local banks in the community. What used to be the First New Hampshire Bank of Lebanon is now the Bank of Ireland. One could question whether that one has any association with their commercial bank anymore. And true with chain drugstores and mail-order houses for drugs. One could wonder whether there will end up being a hometown drugstore on Main street. This isn't necessarily the answer that is going to keep these private businesses afloat, but it certainly is an attempt to recognize the value of these businesses and professional businesses in our hometowns. You know the HMO's are getting pretty big. They in effect, are going to be monopolies. Talk about anti-trust laws and talk about price-fixing, I think it behooves as Senator Nelson said, that we give some concern to the local people that run businesses and our supporters and our leaders in the communities that we represent. As Senator Nelson has indicated, if you believe in truth and justice and the American way, you will also believe in the Russman substitute, and you will defeat this motion and pass this bill. Thank you.

Senator Blaisdell moved the question.

Adopted.

Question is on the substitute motion of interim study.

A Division vote was requested.

Yeas 7

Nays 15

Motion of interim study fails.

Question is on the substitute motion of ought to pass offered by Senator Russman.

Adopted.

Recess.

Out of recess.

Question is on ordering to third reading.

A roll call was requested by Senator Currier.

Seconded by Senator Podles.

The following Senators voted Yes: W. King, Hough, Disnard, Roberge, Blaisdell, Pressly, Nelson, Colantuono, Russman, St. Jean, Shaheen, Delahunty, Hollingworth, Cohen.

The following Senators voted No: Oleson, Heath, Fraser, Currier, Bass, McLane, Podles, Humphrey.

Yeas 14

Nays 8

HB 470 is ordered to third reading.

Recess.

Out of recess.

HB 1153-FN-A, an act authorizing the division of human services to assess an administrative fine on employers for failing to comply with an assignment order. Public Institutions, Health and Human Services committee. Ought to Pass. Senator Bass for the committee.

SENATOR BASS: Mr. President, this bill simply allows the division the authority to access administrative fines against employers who fail to send in the assignment of pay that they have collected from their employees. The committee urges your support of the committee report of ought to pass.

Adopted.

Ordered to third reading.

HB 1154, an act relative to an exemption for the sale of hypodermic syringes for school use. Public Institutions, Health and Human Services committee. Ought to Pass. Senator McLane for the committee.

Recess.

Out of recess.

SENATOR MCLANE: In the absence of J. King I am taking this bill. This is not the bill about hypodermic needles and use. It looks pretty bad when you talk about hypodermic syringes for school use, but this is not the bill which you will be considering later, which is 1350 about which there is some controversy. There was very little controversy about this bill. In schools such as Plymouth State College where the head of the Science Teachers Association of New Hampshire works for Plymouth State College. They have found that they use hypodermic syringes in experiments when they are trying to put a very small amount of any drug into whatever they are ex-

perimenting on; which may be a certain amount of water, it may be any small amount of substance to do experiments. These are not drug syringes in any way. They are merely measuring tubes which they use for experiments. All of the other materials that they use in the laboratories can be purchased from a wholesale scientific dealer. What they have discovered is that now the syringes which they have used for years, are starting to wear out and in order to get new ones they have to go to their pharmacy and purchase them. This has no use for drug use because it has been used for very, very toxic substances as the head of the State Science Teachers pointed out, no one who uses drugs would be fool enough to use any one of these old syringes for drugs. They know enough to know that it has probably been used for hydrochloric acid the last time that it was used. So all that they are asking is that, and they have asked this, I think, in most states, is that for school use, obviously, extremely cared for by the teachers that deal with these items, that they be able to purchase at wholesale from the supplying company. This is supported by our committee.

Adopted.

Ordered to third reading.

HB 1219-FN, an act relative to recovery of assistance under the medicaid program. Public Institutions, Health and Human Services committee. Ought to Pass with Amendment. Senator Bass for the committee.

5689L

Amendment to HB 1219-FN

Amend the bill by replacing all after the enacting clause with the following:

1 Lien Procedure. RSA 167:14-a, III is repealed and reenacted to read as follows:

III.(a) Whenever a recipient of medical assistance shall receive a settlement or an award from a liable third person or party, the state shall have a lien to the extent the amount of recovery makes payment possible upon so much of such award or settlement as the state has expended for medical assistance to the recipient. The state's lien for medical assistance, less its pro rata share of costs and attorney's fees, shall be paid prior to distribution of the award or settlement to the recipient.

(b) Whenever a recipient of medical assistance institutes legal action, formal or informal, against a liable third person or party, the recipient or his legal representative shall notify the director of the division of human services of such action within 30 days.

2 Supplemental Medical Assistance. Because the budget reduction requirements of Executive Order 91-5, as it affects the department of health and human services, will be met without the necessity of eliminating supplemental medical assistance (PART He-W 683) coverage for employed families who lose their AFDC or Title IV-E financial assistance due to new or increased earnings, the director of the division of human services of the department of health and human services shall not repeal or shall readopt rules establishing supplemental medical assistance coverage.

3 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill establishes a lien procedure to allow the state to recoup the amount it spent, less its pro rata share of costs and attorneys' fees, for medical assistance to a medicaid recipient when such recipient receives a settlement from a liable third person. The amount owed to the state is to be paid before the distribution of the settlement to the recipient.

The bill also requires the director of the division of human services, department of health and human services, to not repeal rules or to readopt rules establishing supplemental medical assistance coverage.

SENATOR BASS: Mr. President, I have not been through the customary hours of preparation that I take before I do these particular pieces of legislation. I am doing this for Senator J. King. However, this bill as amended allows the state to recover from a liable third party or person, monies that they received, it allows them to get a lien less a pro rata share of cost in attorneys fees prior to the distribution of the award or the settlement to the recipient, so that if the state is on the hook for medical care and other things, and if there is an award to the plaintiff in the suit, then the state gets its share of participation. The committee urges your support of its report of ought to pass as amended.

SENATOR COLANTUONO: Senator Bass, I am curious how the lien is perfected or how other parties know about it and how it is enforced? If you could just explain that.

Recess.

Out of recess.

SENATOR BASS: I defer to Senator McLane.

SENATOR MCLANE: Mr. President, the members of Public Institutions, Health and Human Services apologize and we would like to tell our Chairman, Senator J. King, that he was deeply missed today.

He was prepared to answer these questions with clarity and we were not prepared to stand in his steps. There is a procedure whereby medicaid patients can have a lien when they receive payments from an insurance payment. That procedure has been in effect. This all refers to an amendment that was put in by the Rules committee and Senator Beverly Hollingworth on top of a very simple bill, which allowed the state, if someone recovered on medicaid assistance, after in a lawsuit, after the state had paid the bill, for the state to recover those costs instead of the person having the state pay for the medicaid and then winning in the court and then getting to keep the money. That is the origin on the original bill. There is an amendment on it that Senator Hollingworth will explain.

SENATOR HOLLINGWORTH: The amendment merely says that the AFDC payment to assist families will not be eliminated. There was an attempt for the elimination of this program through Rules and because the Governor's request for the cuts have been taken in other sections of the legislation, we feel that it is no longer necessary to repeal this section. This was approved by the House and the Senate and then it was vetoed by the Governor back in the Sununu days. This allows a family who is on AFDC funds to receive funding just long enough so that they can get on their feet, once they have a new job or they have new income. What we found is that if we didn't have this, families went back on assistance because they couldn't make the payments. This is the one thing that drove people back onto AFDC, so what this does is allow them to receive supplemental payments just long enough so that they can pay their rent and pay their insurance coverage. This was passed by both the House and the Senate, vetoed by the Governor, but he did put it in through Rules, so the attempt was to remove it again in Rules. We feel that it is inappropriate and that this should stay as part of the policy. It does not require new funding.

Committee amendment adopted.

Ordered to third reading.

HB 1269-FN, an act separating the AFDC standard of need from the AFDC payment standards and increasing the AFDC standard of need. Public Institutions, Health and Human Services committee. Ought to Pass. Senator McLane for the committee.

SENATOR MCLANE: This bill doesn't cost any money, but it is an honest bill. This is the report that the state had from a study committee that was Chaired by Julie Brown, who is the Representative from Rochester. They met for 1-1/2 years and with an amount of money that was paid for by the charitable funds and others, Welles-

ley College and Brandeis, did a study what is called "A market basket study". In this they took a family of four, a mother and three children or a mother and father with two young children, and they cost it out exactly what it would cost them to live in New Hampshire. There has been no objection to the study. I think that perhaps that if I read you what they have here, they have a menu for two weeks, and if you can imagine feeding to a teenage boy the following for a week for dinner, I think that you will see that it is not extravagant. One night he gets a hamburg patty, peas and cheesy mashed potatoes and then before he goes to bed at night he gets one brownie. The next day he gets midwest chowder, I don't know what that is but I bet that it doesn't have very much fish in it. The next night he gets spanish rice. The next night he gets cottage pie and the next night he gets lentil soup and then he ends up with spinach lasagne for Friday night and an all beef hearty meat loaf which is half meat on Saturday night. There isn't a meal there that I think any teenager would say 'whoopee mommy, thank you for dinner'. I think that the point is that it is the bare minimum. He gets two pair of underpants a year, and for a baby, they get one blanket. This is really how minimum it is. As I said, no one has objected to the study, their only fear is that all of us, if we face the reality, might then feel a little guilty about our law which says that we take care of kids that are poor with a standard that is compatible with decency and health. What we are asking here is that the report gave nine options for what the state should do. The only one that didn't cost any money is what you have before you, which as I say is the honesty factor. Face up to how much it costs to bring up a kid in the state of New Hampshire and we don't ask you to pay any more. What I would hope is that after this goes into effect, perhaps that in the next session, we might give an opportunity for welfare mothers if they go to work, to maintain at least their medical benefits and perhaps save a little bit of what they have removed. At the present time, for every \$3 that they gain, they lose \$1.50 in welfare cost until they get up to \$675 and a mom with three kids when she loses all of the welfare benefits and her medical coverage. It is hoped that this study which is the result of 1-1/2 years of work; and as I say, there is nobody that stood up and said that a kid doesn't need a raincoat every three years and there wasn't anyone who stood up and said that they would volunteer to follow that menu for two weeks. So it isn't the problem with the study, it is the problem that whether all of us want to face up to the realities of life for AFDC which stands for Aid to Families with Dependent Children, and that is what this is for. Thank you.

SENATOR HUMPHREY: How are these rates presently set?

SENATOR MCLANE: The rate was set, I believe, in 1970 at the present time and it is called the standard of need, and it is exactly the same as the standard of payment. It is a third of what this study proved was needed for a mother with three kids to live on. Many other states have a different standard of need from a standard of payment. In our case, if we face up to what the standard of need is, it is about 1/3 of what the standard of payment is and the standard of payment would remain the same.

SENATOR HUMPHREY: I still don't understand, you told us when the rate was last set, who has the authority to set it?

SENATOR MCLANE: The legislature. For about 10 years we have had a bill in to increase the AFDC payment. It has gone up two percent in the last seven years, so it is about 30 or 40 percent behind the cost of living at this point.

SENATOR HUMPHREY: The bill says that the director shall annually revise these standards to accurately reflect the current cost of basic necessities of living compatible with decency in health as is determined by reliable market data.

SENATOR MCLANE: That is the national study of what the cost of living is. Therefore, the standard of need would raise with the cost of living as it does for other payments, this would not be a payment, this would just be . . . so that you set it now at a certain figure and the figure is about \$1,600 for a mother with three children a month. You would set it at that, and then next year, if the cost of living went up two or three percent, the standard of need would as well.

SENATOR HUMPHREY: Well, you are attempting to set up a yardstick, evidentially, would that be correct?

SENATOR MCLANE: I guess probably, yardstick is a very good word. But it is a yardstick in which we have never measured up to and I think that it is the realistic assessment of the committee that spent 1-1/2 years studying it, is that we are not going to change what we pay, it is just realistic to say that this is what we should be paying.

SENATOR HUMPHREY: Well, what is this reliable market data to which the bill refers and on which this payment standard is to be dealt with?

SENATOR MCLANE: I have the study before me. It has how many taco shells, how much popcorn, how much peanut butter. This is the study which was done by Brandeis and Wellesley. It has a sample menu. It gives you how much, let us say a 15 year old boy gets 300 calories a day, and it multiplies that out and that is what the study is.

SENATOR HUMPHREY: Is that study done annually?

SENATOR MCLANE: No. This is the first time that it has been done since 1960.

SENATOR HUMPHREY: My question is, where does the director get this reliable market data on which this whole thing is based on?

SENATOR MCLANE: This is the reliable market data and to that he adds the cost of living to it every year, the accepted cost of living.

SENATOR HUMPHREY: That isn't what this says, but in any event.

SENATOR MCLANE: That is the thrust of it. I believe that that is what was meant and what it does says, it gives the director the power to set the standard of need by adding to this study the cost of living.

SENATOR HUMPHREY: Thank you. That isn't what it says, but thank you.

SENATOR HEATH: Senator McLane, I guess it would be preface to say that if I were going to be here another term that I would probably join you in keeping some of the benefits for people who climb into the low-level paying jobs to encourage them to make that crossover instead of punishing them for leaving the welfare system . . .

SENATOR MCLANE: Particularly the medical coverage.

SENATOR HEATH: Particularly the medical coverage, that's right. I think that is one of the motivating facts for people to lapse back into the system rather than take that first step out, because it is almost punitive. However; my question is, is the strategy here to recoup these figures, so that you can jack one up and then recoup them later on to make a case for increasing AFDC. Is that a strategy?

SENATOR MCLANE: I would say, absolutely not. I have been a veteran of 23 years of trying to put up the AFDC payments and I have almost never succeeded. I think that it is very clear that people don't want to pay welfare mothers anymore. But I think that this allows . . . in fact the biggest battle I ever had in the legislature was with Arthur Drake 15 years ago when he tried to remove the words 'with decency and health'. I fought for those words and I still fight for those words. I think that this is a real admission by a group that studied this for 1-1/2 years, that we are not going to put the benefits up. We want us to face the fact that it is more than we are paying. We want at some time, to increase the percentage of this figure that is

covered by medicaid, but that isn't in this bill. At some time, I think that we ought to increase what a mother can keep for when she goes out to work, because what happens now is, she goes out to work, she works for a month and she has a job at McDonalds, she gets her mother-in-law to take care of the kids, she goes out and what happens is that her kids get asthma and she quits her job so that she can get back on AFDC so that the kids can go back to the doctor and that is what we are trying to stop.

SENATOR HEATH: I didn't mean to give you an opportunity to make a speech again.

SENATOR MCLANE: Then don't ask me a question.

SENATOR HEATH: My question only needs a simple yes or no answer and I think that I know the answer before I ask the question, but I don't always expect that I will get that. My next question will be, aside from the question of whether we should put more money into AFDC, is there any other purpose to be coupling this other than a propaganda purpose?

SENATOR MCLANE: Yes.

SENATOR HEATH: What?

SENATOR MCLANE: That purpose is for all of us to see . . .

SENATOR HEATH: Propaganda.

SENATOR MCLANE: That a mother with three children, by a very scientific study and no one has been able to tear holes in this study, that a mother gets from the state, one-third of what she needs and that perhaps that the next step is to allow her to keep some of the money she earns in order to be able to really bring her children up compatible with decency and health. So I believe that the answer is yes. You may call it propaganda, and I think that I would have a different word, which is facing reality.

SENATOR HEATH: Would you believe that when I say propaganda that I am not trying to put a coloration on it, propaganda isn't necessarily bad, I am just saying that are you not doing this, would you believe I am saying, are you not doing this for the information value that would alleviate the public outcry on your side of that question. Is there any other purpose?

SENATOR MCLANE: I guess that I was going to say yes, to the word propaganda, until you said "my side of the question." I am not presenting you today with a \$9,000,000 bill that would bring all of those 16,000 kids that are on AFDC up to what we have proven is the standard of need, I know better . . .

SENATOR HEATH: Why?

SENATOR MCLANE: Because you wouldn't give it to me. What I am asking you is that you face the reality of what it costs a mother and that maybe then when we have looked at the reality, we could then consider a bill which would allow this mom to either keep some of the money that she earns or assure her that she would keep her medicaid, at the very least.

SENATOR HEATH: Why didn't you do that today?

SENATOR MCLANE: The medicaid one is in another bill and it is before and this group has passed that bill. It is over in the House and it is going to pass, and the Governor may veto it, but we have done that.

Adopted.

Ordered to third reading.

HB 1350, an act revising the laws that require a prescription to purchase a hypodermic needle. Public Institutions, Health and Human Services committee. Inexpedient to Legislate. Senator Podles for the committee.

SENATOR PODLES: Mr. President, HB 1350 allows one 18 and over to acquire hypodermic needles without a prescription. There were three concerns by the State of New Hampshire Board of Pharmacy and one of them is since a prescription is required to obtain hypodermic syringes and needles in both Massachusetts and Maine, the passage of HB 1350 would encourage out-of-state drug users to travel to New Hampshire to get these instruments and this would probably be in particular in Nashua and the Salem corridor. The availability of hypodermic syringes and needles to 18 year olds makes accessibility of these instruments to younger children that much easier and it could also cause a hazardous waste disposal problem that would seriously threaten the health and welfare of individuals and even children. HB 1350, Mr. President, is not the solution to the problem. The vote in committee was 3 to 2 in favor of inexpedient to legislate.

SENATOR HEATH: Senator Podles, when I read the newspapers, these things are washing up on the beaches, why in the world would somebody come from Massachusetts to buy needles up here? I mean they are in the dumps, they are in the beaches.

SENATOR PODLES: In Massachusetts the needles must be bought by prescription and if we abolish in the state of New Hampshire as well, they will be able to come here and get these needles without a prescription, so it would make it a lot easier to obtain them.

SENATOR HEATH: Senator Podles, are you aware that veterinarian catalogs such as I get, sell these needles and you can get them through the mail order and that there is really no enforcement at that prohibition?

SENATOR PODLES: I am not aware of that, Senator, but if you say so, I really believe you.

SENATOR HEATH: Senator Podles, do you think that people will give up drugs because they can't get needles?

SENATOR PODLES: Give up drugs because they can't get needles? I don't know.

SENATOR HEATH: They wouldn't. If there is an ounce of prevention, I guess . . . let me rephrase my question. If there is an ounce of prevention in allowing those people who abuse drugs to buy their needles because they get clean needles and they are not spreading the HIV virus, why not allow them to do that, rather than either hand out free needles, which I don't agree with, or make them scratch for used needles behind a veterinarians office and the garbage or at the town dump or wherever they would get needles to practice their dark art?

SENATOR PODLES: I don't know if I can answer that, Senator.

SUBSTITUTE MOTION

Senator Fraser moved to substitute ought to pass for inexpedient to legislate.

SENATOR FRASER: One of the most important health bills to come before us this session is HB 1350. It repeals the law requiring a prescription to purchase needles. There are only ten states, mostly in the northeast, which have this law today. Interestingly enough, these are the states with the highest percentage of HIV infected IV drug users. New Hampshire has an opportunity to do something positive and effective to curb the spread of AIDS. This is not a panacea but infection among IV drug users is growing at an alarming rate. On our neighboring cities of Lawrence and Lowell, Massachusetts 47 to 52 percent of the IV drug users are HIV positive. The problem is so severe in Massachusetts and Connecticut that both these states are re-thinking their policy of requiring prescriptions for needles. Here in New Hampshire the problem is proportionately the same as nationally. Fortunately, our numbers are small enough that with this bill and more education we can curb the spread of this disease. However, the rate of infected IV drug users has increased more than 15 percent in New Hampshire in the past two years. AIDS amongst women is becoming a serious problem because they

are infected by their IV drug abuser husbands or boyfriends. Nationally in 1985 there were 540 women tested positive and in 1990 there were 23,000. It is important to remember that most IV drug users do not have health insurance. These are the disenfranchised who have little family support and consequently become Medicaid eligible early on at great cost to the system. The estimated cost for care is around \$45,000 per year. This is yet another reason I feel we should pass this bill. This is not a question of education or the notion of sending out the wrong message. This is a matter of life or death. So far New Hampshire has had 138 deaths from AIDS of the 251 reported so far. This is only the tip of the iceberg. The public health experts estimate that there are 2,500 to 3,000 HIV positive persons in New Hampshire. In closing, Mr. President, let me list a few of the groups supporting this legislation. The New Hampshire Public Health Department, The New Hampshire Nurses Association, The New Hampshire Pharmacy Association, The AIDS Foundation, The New Hampshire Medical Society and last but not least, The National Conference of State Legislators. Mr. President, this is in my view, a disease that is growing at rather alarming epidemic proportions and I would urge that the Senate adopt HB 1350. Thank you.

SENATOR BASS: Mr. President, I rise in opposition to the substitute motion of ought to pass. I do so with a tremendous amount of respect for the sponsors and the proponents of this bill, because certainly the spread of AIDS is a serious problem that we face in New Hampshire. I agree by doing everything that we can to limit the use and the reuse of syringes. We may have an impact on reducing the outbreak or the transmission of HIV positive. In the course of listening to the testimony that was presented in the hearing, something just didn't come together for me on this bill. In the first place, I don't know whether allowing people to buy needles is going to necessarily result in everybody acting with them in a sanitary fashion. It is my understanding, that in many instances, it is part of the cultural process or whatever, to pass these needles around anyway, and I don't know whether in answer to Senator Heaths question, that a washed up needle on the beach is going to be sharp enough or usable, I should think that it would be somewhat corroded. I guess what really brings concern to my mind is the question that we have before us is drug abuse and its relationship to AIDS. The bigger issue in my opinion, is the problem of drugs. In allowing the purchase of needles, we are in effect indirectly abetting one bad thing to help another bad thing. I think that there are much larger issues here, the question of legalization of drugs versus making them illegal. The question of education for AIDS prevention. It just seems to me that

this concept seems to be a very artificial and perhaps not productive means of dealing with a very serious problem. So I urge defeat of the pending motion.

SENATOR HOLLINGWORTH: Senator Bass, you sit on this committee and I understand that the only people who appeared in opposition to this bill were the veterinarians, is that correct?

SENATOR BASS: Senator Hollingworth, I know that the veterinarians did and I believe that the Board of Pharmacy did also. I am not so sure that one should determine what ones vote is going to be on the basis of whether a lot of people come in favor or in opposition to a bill. I don't know what the constituency is in opposition to the bill, it is hard to quantify. I certainly think that there is an interest in the state that are in favor of the bill and legitimately so. I am not suggesting that this bill is a terrible thing, but I am suggesting that it may not really, it is well intentioned, but it really doesn't, in my opinion, persuade me that it is going to make a significant enough difference and the specter of having it exacerbate the drug problem worries me.

SENATOR HOLLINGWORTH: Senator Bass, do you think for one minute that somebody who doesn't use drugs now would start because he can get a free hypodermic needle?

SENATOR BASS: No.

SENATOR MCLANE: Senator Bass, I am going to try and ask the same sort of question that Senator Hollingworth did. To me the question is this: AIDS is the fastest growing epidemic that has ever come to the United States and the growth is principally in the area of drug abuse, if I felt that I was not an expert in this area, but that my new public health director, who is a nationally known figure and the medical society, told me very clearly that this bill was a priority, why would I think in any way that my uninformed judgement about a very emotional subject was more valid than those people that are on the front lines of this epidemic?

SENATOR BASS: The answer to your question, Senator McLane, is that there is definitely evidence to indicate that HIV is a serious and growing problem in the state of New Hampshire. No one has questioned that. The question that I have is whether or not making syringes available which is certainly not going to reduce drug abuse and drug dependency is an appropriate trade-off. Certainly, Senator McLane, there are plenty of individuals who would kill for other reasons in the course of taking drugs, such as overdoses and other forms of crimes, so there are other arguments associated with the question of drug abuse. There are two things, the AIDS epidemic

and the drug abuse problem. I guess the question that the Senate has to decide is whether or not they feel that it is appropriate to provide what might be a mechanism to promote illicit use of drugs in the name of possibly reducing the AIDS virus, that is the question. I am not suggesting that it is clear-cut as I have said from the beginning. I think that the sponsors of this bill had good intentions and there may be some merit to it, but where I come down as a result of listening to this testimony is where I take the position that I am at today.

SENATOR MCLANE: If that is your reasoning, I would have one more question and that it is in the words of a woman named Janet Gamsby who spoke twice before our committee and is herself a victim of AIDS. Her question to the committee was: If there is one thing that you could do to prevent one person from getting this horrible disease, isn't that the correct thing for a legislator to do? I guess that I would echo those words and ask you that question.

SENATOR BASS: I would respond by saying that if there was anything that we could do to prevent people from abusing drugs and dying of overdoses and so forth, we ought to do that too, and we ought to balance those two objectives.

SENATOR COLANTUONO: Senator Fraser, I am curious to know if there was any testimony presented as to how many cases of AIDS we have in New Hampshire exist strictly among drug abusers who use hypodermic needles?

SENATOR FRASER: Senator Colantuono, first of all, I did not attend the whole hearing. And secondly, I have no answer to your question.

SENATOR COLANTUONO: Was there any testimony presented from the experts as to how many of the drug abusers will actually go into a pharmacy and buy them?

SENATOR FRASER: You better repeat the question.

SENATOR COLANTUONO: Was there any testimony presented from the experts as to how many drug abusers would actually go into a pharmacy and buy these hypodermic needles if this law passed?

SENATOR FRASER: Senator, once again, I don't have an answer for you.

SENATOR COLANTUONO: We have laws on the books now that ban, basically make illegal all forms of drug paraphernalia, I am curious to know the logic of legalizing this particular form of drug para-

phernalia which is only used for about the worse type of drug abuse that there is, while we leave on the books, laws against something like a hash pipe, for example?

SENATOR FRASER: Senator, I don't know about hash pipes, but I can tell you this much, that this bill in its present form, is an effort by a group of people to stop the widespread and almost epidemic proportions of AIDS. As Senator McLane articulated far better than I could, if it helps one person from becoming HIV positive, then the legislation is certainly worthwhile.

SENATOR COLANTUONO: I am curious to know also if the experts testified whether people who support a habit for heroin or something like that would even have the money to go into a drug store and buy these needles?

SENATOR FRASER: Was there any testimony?

SENATOR COLANTUONO: Yes, was there?

SENATOR FRASER: No.

SENATOR HUMPHREY: Senator, do I read the bill correctly in that to the effect that it sets no limits on the number of needles that a person 18 years or older may buy?

SENATOR FRASER: That is correct.

SENATOR HUMPHREY: Well, I share the concern expressed by Senator Bass and Senator Colantuono and Senator Podles, the Chairman of the committee. It is a real dilemma. I mean on the one hand you think that it is a reasonable assumption that making it possible to buy needles without a prescription, the benefit of that will be the reduced cases of HIV cases, I think that is a reasonable assumption. But I think it is also reasonable to assume that if anyone 18 years or older can buy needles in whatever quantity he or she wants and as often, that also it is going to increase the likelihood of greater numbers of intravenous drug abuse. I suppose that is why the Pharmacy Board testified against this proposal. It is a pretty tough choice and it is made even tougher by the inability to know how many, by which percentage, there will be an increase in cases of drug abuse versus by what percentage will new cases of HIV be prevented, we just don't know and it is purely a judgement call, but I think those two things are going to work in tandem to reduce HIV incidents by making needles available, at the same time, I have to believe that drug abuse will be going up, by what proportions, it is impossible to say, but at the very least, if we are going to pass something like this, there ought to be some constraints on the numbers of

needles that people can buy or else you have somebody supplying needles almost wholesale or at least unregulated and unlimited in number into the drug culture.

SENATOR FRASER: You did preface your remarks, Senator, by saying would you believe, didn't you?

SENATOR HUMPHREY: Well, it was a question anyway.

SENATOR FRASER: Senator Humphrey, I agree that it is a judgement call that we have to make here today. In my view, and I wouldn't be so strongly in support of this legislation if I didn't think that this was true, that so far as the balance is concerned, I truly believe, that there will be less HIV positives. There is no data anywhere to indicate that in any state that has repeal or doesn't have a law requiring prescriptions for needles, there is no data that would indicate that the drug abuse has increased in those jurisdictions. As I indicated in my testimony, there are only 10 states that have laws, that require prescriptions for needles, mostly, primarily here in the northeast, we are the laxest, apparently we have the highest ratio of HIV positive on this side of the country.

SENATOR HUMPHREY: Per capital? More drug abuse or across the board?

SENATOR FRASER: I am talking about HIV positive.

SENATOR HUMPHREY: Among drug abusers or just HIV positive?

SENATOR FRASER: I do not know. It is probably across the board.

SENATOR MCLANE: Senator Fraser, I know that although you have an interest in the bill, you as Senator Bass, was not at the hearing, so I wondered if you would like the answers to some of the questions that Senator Colantuono asked you?

SENATOR FRASER: I would be delighted to have those answered.

SENATOR MCLANE: Well, I wonder if you knew that in Canada and Vermont, where needles are readily available, that the number of intravenous drug users who have HIV is only one percent and yet in New Hampshire it is 15 percent and it is 80 percent of the new cases within the last year. I wonder if you knew that?

SENATOR FRASER: Were you asking me that question?

SENATOR MCLANE: Yes. I am asking you and you are suppose to say, no!

SENATOR FRASER: No.

SENATOR MCLANE: And secondly, I wonder if you knew that in New Hampshire there were 251 AIDS totalling that, and half of those have died and that there are approximately 2,500 HIV infected of which 15 percent are drug users?

SENATOR FRASER: Yes, I did know that, Senator.

SENATOR HEATH: I guess finding myself in increasingly strange company on this issue, and wondering about some of the sparest arguments that I need to rise to defend myself. I don't know how we know how many people use drugs, they don't report themselves and the police haven't been able to ever advocate them, so if they knew, they would go to their house and knock on the door and arrest them, I would suspect, I would hope. I look at this as I have listened and listened and I haven't heard a speck of evidence as to why allowing them to go into the drug store or the dry goods store or the grocery store and buy needles, how that is going to increase the use of drugs, I can't picture someone on heroin or any other kind of needle injected drug, saying 'gee, I can't get a fresh needle today, I guess I won't do my drug'. If it were that easy to quit, they would have all quit. It is like the gun control issue, you can take away the needles, it is not that difficult probably to make a needle, it certainly is not going to prevent anybody from taking drugs. Now I know all of you conservative friends of mine are going to save yourselves from getting beat over a little bit by the Union Leader if you are on that side of the issue. But it is a simple equation to me, I am off the reservation. I have been off of the reservation on a number of times and I somehow survived it. But I will tell you that you are not going to stop anybody from using drugs by taking this away. The reason that the vets don't want it is because they don't want people with a bunch of cows or a bunch of dogs to be doing their own medicine. The reason that the pharmacists don't want it is that they want you to come there and get it. If it is not a prescription thing, then it doesn't have to be sold at a pharmacy, you can pick it up at the hardware store for crying out loud. You are not going to save anybody from drugs by limiting the supply of needles, it is too easy to get needles. All that you have to do is to go through the veterinarians trash or the doctors trash or any other place, you might save a few lives from HIV virus if you allow this. I think, it is a measure that makes sense. I don't think that it is going to save a lot of lives, but I don't see the downside of it, and I would urge you to support this. I don't think that it is going to do a lot of good, but there is no harm in doing it and

there may be some good in doing it. I think that that is where the balance of possibilities lies with doing some good. I would urge you to support it.

Question is on the substitute motion of ought to pass.

A roll call was requested by Senator Humphrey.

Seconded by Senator Bass.

The following Senators voted Yes: Oleson, W. King, Heath, Fraser, Hough, Currier, Blaisdell, Pressly, McLane, Russman, Shaheen, Hollingworth.

The following Senators voted No: Disnard, Roberge, Bass, Colantuono, Podles, Humphrey, St. Jean, Delahunty, Cohen.

Yeas 12

Nays 9

Substitute motion of ought to pass is adopted.

Ordered to third reading.

Recess.

Senator Delahunty in the Chair.

HCR 24, a resolution urging the President to establish a commission to review access to current health care systems and to adopt unified access to health care in this country and urging Congress to enact recommendations of the commission. Public Institutions, Health and Human Services committee. Ought to Pass. Senator McLane for the committee.

SENATOR MCLANE: This is a feel good bill and if we want to feel good, I hope that we pass it. It is perfectly obvious that health care, this bill was put in before the Presidential primary. It is perfectly obvious that health care, the cost of health care, the availability of health care, is probably the principle political issue of the age. This bill merely asks the President to appoint a committee who would look into the various plans. I don't understand them, I would like to know what national figures who are dealing with health care cost think in their considered opinion. I don't know whether to pay or play plan or whether a single medical system plan is the best. I believe that it should be studied.

SENATOR ROBERGE: Senator McLane, the words "adopt unified access to health care" concerns me. If I vote yes for this measure, does that mean that I am encouraging the President in our federal delegation to use socialized medicine more favorably?

SENATOR MCLANE: No. Absolutely not. But I think that it is very, very clear that for the 35,000 - 45,000 people in the state of New Hampshire who have no medical care coverage, that we are all

paying for their health care cost. We are also paying for more than we would if they had health care coverage because they have no availability of preventative care. They wait until they are real sick and then they go to the emergency room and they get committed to the hospital, and then we pay for the bill because they don't have the money. So, I believe, that what that means is it is in everybody's interest to have everyone covered in some way. That is the way that I interpreted it, and that is the way that I hope that the study would be carried out.

SENATOR HUMPHREY: Well it is a two part resolution, Mr. President. It not only asks the President of the United States to appoint a commission, it also urges that congress, it also states that congress be urged to enact a national health program adopting the recommendations of the commission. Senator McLane said that this was a feel good bill, and to a certain extent that is true, resolutions are feel good legislation, but I never feel particularly good, Senator McLane, instructing or asking our federal Representatives to vote for something before I know what it is on which they might be voting. In other words, I don't feel that good about buying a pig in a poke, and I am not about to support a measure urging the adoption of recommendations that I haven't even seen. So, if you don't mind, I think that I will wait.

SENATOR COLANTUONO: Senator McLane stated that this legislation was put in before the presidential primary and all of the current talk during the presidential campaign and I think that is abundantly clear that this issue is going to be taken care of. It is the number one issue this year and for that reason and for the reason that there is some ambiguity in the bill. If you vote for it, you can be accused of being for socialized medicine and if you vote against it, you can be accused of being against access for health care for all of our citizens. It is a no win situation. It is a meaningless piece of legislation and a waste of time. I would urge a fellow colleague to move to table it and I would urge people to vote to table it.

Senator Humphrey moved to have HCR 24 a resolution urging the President to establish a commission to review access to current health care systems and to adopt unified access to health care in this country and urging Congress to enact recommendations of the commission laid on the table.

Recess.

Out of recess.

Question is on the motion of having HCR 24 laid on the table.

A division vote requested.

Yeas 7

Nays 10

Motion to have HCR 24 laid on the table fails.

SENATOR HUMPHREY: Since we now have more Senators on the floor, may I point out that on the second page of this resolution the first sentence states that 'congress be urged to enact a national health program adopting the recommendations of the commission'. So Senators that want to adopt this resolution, they're urging Senators Rudman and Smith and Congressmen Zeliff and Swett to adopt recommendations which we haven't even seen yet, which haven't even been formulated, since no such committee is even sitting. Do you want to urge our members, our federal Representatives, our Representatives to the federal legislature to vote for something that you haven't even seen yet, that hasn't even been formulated yet? This is really ridiculous.

SENATOR MCLANE: Senator Humphrey, you testified that you had never read a resolution from the New Hampshire Senate when you were in Congress and in fact, you threw them away . . .

SENATOR HUMPHREY: No, no . . .

SENATOR MCLANE: And I wonder if . . .

SENATOR HUMPHREY: No, indeed. I challenge you to ever produce anything I have said of that nature, because I have never even thought it. You must be thinking of another Senator, Senator. I really take offense to that, because I most certainly did read such resolutions. I would never throw them away.

SENATOR MCLANE: Alright, I withdraw my question.

SENATOR FRASER: Senator McLane, I am one of those that wasn't present on the floor when you first explained this resolution. Would you please explain to me the first sentence at the top of page two?

SENATOR MCLANE: I believe that what it is talking about is a national health program that you worried was national health insurance, merely refers to the paragraph before that in which it talks about the issues of access to health care for all Americans, cost containment and a choice of programs. I believe that in no way defines a national health scheme, but merely asks a commission to look at the problems of health care cost and the possible solutions.

SENATOR FRASER: Thank you.

Question is on the committee report of ought to pass.

A division vote requested.

Yeas 12

Nays 7

Adopted.

Ordered to third reading.

HB 747-FN, an act establishing a committee to study ways for retail liquor store operations to maximize state revenues while maintaining adequate service to the community and allowing the liquor commission to vary its liquor prices from store to store. Ways and Means committee. Inexpedient to Legislate. Senator Hollingworth for the committee.

SENATOR HOLLINGWORTH: The committee on Ways and Means would like to ask your support of inexpedient to legislate. The sponsor of the bill brought in a bill, originally that dealt with privatization and the House regulated revenue changed it into this study bill in which to maximize the sale of revenue coming from liquor stores and also to study whether the commission should vary its liquor prices throughout the state. The committee felt strongly that the policy issue of whether prices should be the same throughout the state should be dealt with separately and through the committees for proper policy statement. And as to maximizing the sale, New Hampshire has maximized the sale of alcohol, we feel very strongly. It is leading the nation in the sales of alcohol for, roughly, every \$50 in profit per capita is to residents of the state of New Hampshire to the general fund. The closest state only brings in \$27, so it is almost double of what other states are bringing in and we feel that the Department of Liquor, the Liquor Commission is bringing in more than ample maximum sales and we feel that any further bill should come in through the process and not the study bill this year.

Committee report of inexpedient to legislate is adopted.

TAKEN OFF THE TABLE

Senator Humphrey moved that we have HB 411 an act relative to discrimination in the issuance of health insurance policies and relative to access to group plans taken off the table.

Adopted.

HB 411, an act relative to discrimination in the issuance of health insurance policies and relative to access to group plans taken off the table. Insurance committee. Ought to pass as amended. Senator Nelson for the committee.

5724L

Amendment to HB 411

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraphs; Non-Discrimination in Group or Blanket Policy Issuance. Amend RSA 415:18 by inserting after paragraph XI the following new paragraphs:

XII. No insurer shall, when issuing or renewing a policy or contract of insurance or any certificate under such policy or contract covered by this chapter, deny coverage or limit coverage to any resident of this state on the basis of health risk or condition except that a waiting period consistent with insurance department rules may be imposed for pre-existing medical conditions. If an insurer accepts an application for group coverage, such acceptance shall be subject to the following:

(a) If the group has coverage in effect through another plan, the insurer shall accept all persons covered under the existing plan. If the group does not have coverage in effect through another plan, the insurer shall accept all persons for which the group seeks coverage.

(b) Once a group policy has been issued, any person becoming eligible for coverage shall become covered by enrolling within 31 days after first becoming eligible. Any person so enrolling shall not be required to submit evidence of insurability based on medical conditions. If a person does not enroll at this time, he is a late enrollee.

(c) Once a group policy has been issued, the insurer shall provide the group with an annual open enrollment period for late enrollees. During the open enrollment period, any late enrollee shall be permitted to enroll without submitting any evidence of insurability based on medical conditions. The pre-existing condition provisions shall apply 18 months from the date of enrollment for late enrollees, only. "Late enrollee" means an eligible employee or dependent who requests enrollment in a health insurance plan of a small employer following the initial enrollment period provided under the terms of the plan, provided that the initial enrollment period shall be a period of at least 30 days. However, an eligible employee or dependent shall not be considered a late enrollee if the individual:

(1) Was covered under a public or private health insurance or other health benefit arrangement at the time the individual was eligible to enroll; and

(2) Has lost coverage under a public or private health insurance or other health benefit arrangement as a result of termination of employment or eligibility, the termination of the other plan's coverage, death of a spouse, or divorce; and

(3) Requests enrollment within 30 days after termination of coverage provided under a public or private health insurance or other health benefit arrangement;

(i) The individual is employed by an employer which offers multiple health benefit plans and the individual elects a different plan during an open enrollment period; or

(ii) A court has ordered coverage to be provided for a spouse or minor child under a covered employee's health benefit plan and request for enrollment is made within 30 days after issuance of such court order.

XIII. An insurer issuing policies of group insurance shall allocate the costs associated with maternity and childbirth over both males and females covered by its entire block of business in this state. In cases in which, because of the amount written in the state, allocation to an entire block of business needs to occur, the carrier may apply for a waiver from the insurance commissioner.

2 New Paragraphs; Non-Discrimination by Health Service Corporations. Amend RSA 420-A:7 by inserting after paragraph VII the following new paragraphs:

VIII. No health service corporation shall, when issuing or renewing a policy or contract of insurance or any certificate under such policy or contract covered by this chapter, deny coverage or limit coverage to any resident of this state on the basis of health risk or condition except that a waiting period consistent with insurance department rules may be imposed for pre-existing medical conditions. If a health service corporation accepts an application for group coverage, such acceptance shall be subject to the following:

(a) If the group has coverage in effect through another plan, the health service corporation shall accept all persons covered under the existing plan. If the group does not have coverage in effect through another plan, the health service corporation shall accept all persons for which the group seeks coverage.

(b) Once a group policy has been issued, any person becoming eligible for coverage shall become covered by enrolling within 31 days after first becoming eligible. Any person so enrolling shall not be required to submit evidence of insurability based on medical conditions. If a person does not enroll at this time, he is a late enrollee.

(c) Once a group policy has been issued, the health service corporation shall provide the group with an annual open enrollment period for late enrollees. During the open enrollment period, any late enrollee shall be permitted to enroll without submitting any evidence of insurability based on medical conditions. The pre-existing condition provisions shall apply 18 months from the date of enrollment for late enrollees, as defined in RSA 415:18, XII(c), only.

IX. An insurer issuing policies of group insurance shall allocate the costs associated with maternity and childbirth over both males and females covered by its entire block of business in this state. In cases in which, because of the amount written in the state, allocation to an entire block of business needs to occur, the carrier may apply for a waiver from the insurance commissioner.

3 New Paragraphs; Non-Discrimination by Health Maintenance Organizations. Amend RSA 420-B:12 by inserting after paragraph IV the following new paragraphs:

V. No health maintenance organization shall, when issuing or renewing a policy or contract of insurance or any certificate under such policy or contract covered by this chapter, deny coverage or limit coverage to any resident of this state on the basis of health risk or condition except that a waiting period consistent with insurance department rules may be imposed for pre-existing medical conditions. If a health maintenance organization accepts an application for group coverage, such acceptance shall be subject to the following:

(a) If the group has coverage in effect through another plan, the health maintenance organization shall accept all persons covered under the existing plan. If the group does not have coverage in effect through another plan, the health maintenance organization shall accept all persons for which the group seeks coverage.

(b) Once a group policy has been issued, any person becoming eligible for coverage shall become covered by enrolling within 31 days after first becoming eligible. Any person so enrolling shall not be required to submit evidence of insurability based on medical conditions. If a person does not enroll at this time, he is a late enrollee.

(c) Once a group policy has been issued, the health maintenance organization shall provide the group with an annual open enrollment period for late enrollees. During the open enrollment period, any late enrollee shall be permitted to enroll without submitting any evidence of insurability based on medical conditions. The pre-existing condition provisions shall apply 18 months from the date of enrollment for late enrollees, as defined in RSA 415:18, XII(c), only.

VI. An insurer issuing policies of group insurance shall allocate the costs associated with maternity and childbirth over both males and females covered by its entire block of business in this state. In cases in which, because of the amount written in the state, allocation to an entire block of business needs to occur, the carrier may apply for a waiver from the insurance commissioner.

4 New Paragraphs; Non-Discrimination through Preferred Provider Agreements. Amend RSA 420-C:4 by inserting after paragraph VI the following new paragraphs:

VII. No preferred provider shall, when issuing or renewing a

policy or contract of insurance or any certificate under such policy or contract covered by this chapter, deny coverage or limit coverage to any resident of this state on the basis of health risk or condition except that a waiting period consistent with insurance department rules may be imposed for pre-existing medical conditions. If a preferred provider accepts an application for group coverage, such acceptance shall be subject to the following:

(a) If the group has coverage in effect through another plan, the preferred provider shall accept all persons covered under the existing plan. If the group does not have coverage in effect through another plan, the preferred provider shall accept all persons for which the group seeks coverage.

(b) Once a group policy has been issued, any person becoming eligible for coverage shall become covered by enrolling within 31 days after first becoming eligible. Any person so enrolling shall not be required to submit evidence of insurability based on medical conditions. If a person does not enroll at this time, he is a late enrollee.

(c) Once a group policy has been issued, the preferred provider shall provide the group with an annual open enrollment period for late enrollees. During the open enrollment period, any late enrollee shall be permitted to enroll without submitting any evidence of insurability based on medical conditions. The pre-existing condition provisions shall apply 18 months from the date of enrollment for late enrollees, as defined in RSA 415:18, XII(c), only.

VIII. An insurer issuing policies of group insurance shall allocate the costs associated with maternity and childbirth over both males and females covered by its entire block of business in this state. In cases in which, because of the amount written in the state, allocation to an entire block of business needs to occur, the carrier may apply for a waiver from the insurance commissioner.

5 Access to Group Plan Extended. Amend RSA 415:18, VII(g)(1) to read as follows:

(g)(1) Whenever any individual **who has been employed for at least 6 months and** who is a member of any group hospital, surgical, medical insurance plan or health maintenance organization becomes ineligible for continued participation in such plan for any reason including death, **except dismissal for gross misconduct**, the benefits of such plan shall be available at the same group rate to the individual, the surviving spouse and the dependents covered by the group plan, for an extension period of [39 weeks]:

(A) 18 months; or

(B) 29 months in the case of an individual who is determined, under Title II or XVI of the Social Security Act to have been disabled at the time such individual becomes ineligible for continued participation in the plan; or

(C) 36 months in the case of:

- (i) the death of the covered employee;**
- (ii) the divorce or the legal separation of the covered employee from the employee's spouse;**
- (iii) the covered employee's becoming entitled to benefits under Title XVIII of the Social Security Act; or**
- (iv) a dependent child ceasing to be a dependent child** or until such member, surviving spouse or dependent becomes eligible for benefits under another group plan, whichever occurs first. The individual, surviving spouse or dependent shall elect to continue the participation in the group plan [within 30 days after the member becomes ineligible to participate] **according to rules adopted by the commissioner under RSA 541-A.** The member, surviving spouse or dependent shall be responsible for payment of premiums **which may include an administrative fee not to exceed 2 percent of the monthly premium** to the employer or policyholder throughout the extension period. Upon termination of the extension period, the member, surviving spouse or dependent shall be entitled to exercise any option which is provided in the group plan to elect a converted policy. After timely receipt of the premium payment from the individual or surviving spouse, if the employer fails to make payments to the insurer or hospital or medical service corporation or health maintenance organization, with the result that coverage is terminated, the employer shall be liable for benefits to the same extent as the insurer or hospital or medical service corporation would have been liable if coverage had not been terminated.

6 Notice of the Right to Continue Group Coverage. Amend RSA 415:18, VII(g)(4) to read as follows:

(4) Whenever any group hospital, surgical, medical insurance plan, or health maintenance organization coverage terminates for any reason, **unless such member, surviving spouse or dependent is, at the termination date, enrolled in the group plan pursuant to RSA 415:18, VII(g)(1),** the benefits of such plan shall be available at the same group rate to the individual, the surviving spouse, and the dependents covered by the group plan, for an extension period of 39 weeks, or until such member, surviving spouse, or dependent becomes eligible for benefits under another group plan, whichever occurs first. **Any such member, surviving spouse or dependent who is enrolled in the group plan pursuant to RSA 415:18, VII(g)(1) upon the termination date shall have the benefits of such plan available to him at the same group rate for an extension period of 39 weeks, or an extension period to the date the extension provided under RSA 514:18(g)(1) would have expired had the plan not been terminated, or until such member, surviving spouse or dependent becomes eligible for benefits under another group plan,**

whichever occurs first. Written notice of the right to continue such group coverage shall be given by the insurance company in each master policy, certificate, and group policy. The insurance company shall furnish each employer or group an adequate supply of attachments for each master policy, certificate, or group policy in effect. An individual, surviving spouse, or dependent electing continuation of coverage under this subparagraph shall provide the insurance company written notice of election together with the first monthly premium contribution within 31 days from the date coverage would otherwise terminate. The group rate shall be paid by the individual, surviving spouse, or dependent directly to the insurance company. The premium rate shall be that required for the coverage being continued and shall not exceed the applicable group rate, but a reasonable administrative fee not [exceeding \$3 per month] **to exceed 2 percent of the monthly premium** may be charged to offset billing and payment costs. Upon termination of the extension period, the member, surviving spouse, or dependent shall be entitled to exercise any option which is or was provided in the group plan to elect a converted policy. If a person or member becomes entitled to the 39-week extension period under this subparagraph and if such person or member has not been given notice of the termination of the group plan 31 days from the date of termination of the group coverage, then the person or member shall have an additional period within which to elect the 39-week extension period. This additional period shall expire 15 days after the person or member shall have been given said notice, but in no event shall the additional period extend beyond 6 months after the expiration of the original 31-day period. Written notice presented to the person or member or mailed by the policyholder to the last known address of the person or member as furnished by the policyholder shall constitute the giving of notice for the purpose of this subparagraph. If an additional period is allowed the person or member for election of the 39-week extension period as provided in this subparagraph, and if written notice of election accompanied by the first monthly premium and any monthly premiums which may be overdue, if any, is made after the expiration of the original 31-day period, but within the additional period allowed an employee or member in accordance with this subparagraph, the effective date of the extension period shall be the date of termination from the group. In no event shall a person or member entitled to such extension period be responsible for premiums accrued and unpaid prior to the termination or cancellation of the coverage.

7 Effective Date. This act shall take effect January 1, 1993.

SENATOR DELAHUNTY (In the Chair): When we left this bill last, it was tabled without taking action on the committee amend-

ment. We must first either pass or defeat the committee amendment before we can take further action. It is in the Journal of April 9, 1992 on page 376 on the bottom.

Committee amendment adopted.

SENATOR HUMPHREY: Mr. President, an amendment is being passed out. If Senators will recall last week, we tabled the bill without prejudice in order to allow for the drafting of an amendment. That amendment is now being circulated and that intent in effect of that amendment is to make it unlawful for insurance companies to discriminate against adopted children. A little explanation: If someone has an insurance policy that covers his or her children, they are covered at birth. With an adopted child, however, the law permits, I don't know to what extent this discrimination takes place, but the law does permit discrimination against adopted children such that they are not covered from the moment that they are placed in the custody of the would-be adopted parents and are therefore uncovered, not covered by insurance between that period of custody and formal adoption which can be a matter of months sometimes. That unavailability of coverage is a detriment against adoption and I think on its face, it ought to be discouraged, indeed, made unlawful and that is the purpose of this amendment.

Senator Humphrey offered a floor amendment.

5783L

Floor Amendment to HB 411

Amend the title of the bill by replacing it with the following:

AN ACT

relative to discrimination in the issuance of health
insurance, access to group plans, and health
insurance during adoption proceedings.

Amend the bill by inserting after section 6 the following and renumbering the original section 7 to read as 10:

7 New Section; Coverage During Adoption Proceedings. Amend RSA 415 by inserting after section 22 the following new section:

415:22-a Coverage During Adoption Proceedings. All individual and group health insurance policies which provide coverage for a family member of the insured shall, as to such family member's coverage, also provide that health insurance benefits applicable for children are payable with respect to any minor from the date such minor is placed in the custody of the insured pursuant to an adoption pro-

ceeding under the provisions of RSA 170-B. Such health insurance benefits shall terminate upon dismissal or withdrawal of the petition for adoption.

8 New Section; Coverage During Adoption Proceedings. Amend RSA 420-A by inserting after section 7-d the following new section:

420-A:7-e Coverage During Adoption Proceedings. All contracts issued by a nonprofit health service corporation which provide coverage for a family member of the subscriber shall, as to such family member's coverage, also provide that health insurance benefits applicable for children are payable with respect to any minor from the date such minor is placed in the custody of the subscriber pursuant to an adoption proceeding under the provisions of RSA 170-B. Such health insurance benefits shall terminate upon dismissal or withdrawal of the petition for adoption.

9 New Section; Coverage During Adoption Proceedings. Amend RSA 420-B by inserting after section 8-d the following new section:

420-B:8-e Coverage During Adoption Proceedings. All contracts issued by a health maintenance corporation which provide coverage for a family member of the subscriber shall, as to such family member's coverage, also provide that health insurance benefits applicable for children are payable with respect to any minor from the date such minor is placed in the custody of the subscriber pursuant to an adoption proceeding under the provisions of RSA 170-B. Such health insurance benefits shall terminate upon dismissal or withdrawal of the petition for adoption.

AMENDED ANALYSIS

This bill prohibits health insurers, health service corporations, health maintenance organizations, and preferred provider plans from denying or limiting coverage on the basis of health risk or condition, except that a waiting period may be required for pre-existing medical conditions. Such entities are also prohibited from discriminating on the basis of gender in determining rates associated with maternity care and childbirth.

This bill extends the time frame within which a person, or that person's surviving spouse or dependent, who has become ineligible to participate in his group health insurance policy due to death or any other reason, except dismissal for gross misconduct, has access to such group policy to a period consistent with COBRA.

The bill also requires health insurers, health service corporations, and health maintenance organizations which provide coverage to family members of the insured or subscriber to extend such coverage to children in the custody of the insured or subscriber pursuant to adoption proceedings.

SENATOR PRESSLY: I would just like to rise and give a compliment to our colleague. I think that it is an area of adoption that is frequently forgotten about and it is really important and I commend you for catching that and for doing that right thing by it. Thank you.

SENATOR HUMPHREY: Thank you, Senator.

Floor amendment adopted.

Ordered to third reading.

HB 1101-FN, an act relative to certain liquor license fees and expanding certain prohibitions regarding competing interest in liquor and wine sales. Ways and Means committee. Ought to Pass with Amendment. Senator Russman for the committee.

5773L

Amendment to HB 1101-FN

Amend the bill by replacing section 1 with the following:

1 Military Clubs; Special Licenses. Amend RSA 178:27, I to read as follows:

I. On-sale licensees shall pay the following applicable fees annually:

	Supplemental Only	Beverages and Wine	Beverages and Liquor	Cocktail Lounge
Airport				\$1,200
Alpine Slide				1,200
Ballroom	\$45			1,200
Bed and Breakfast		\$480	\$840	
Bowling Facility				1,200
Catering (all)				1,200
Catering (off-site only)				840
Catering (on-site only)		18 events - 450 36 events - 750 52 events - 1,200		
Club Military				100
Club Social		18 events - 450 36 events - 750 52 events - 1,200		1,200
Club Veterans		18 events - 450 36 events - 750 52 events - 1,200		840
College Club				1,200
Convention Center				2,400
Dining Car		480	840	
Fairs		112		
Golf Facility				1,200

Hotel		840	1,200
One Day License			100
Performing Arts			360
Race Track			3,000
Racquet Sports			1,200
Rail Cars			1,200
Restaurant	480	840	1,200
Ski Facility			1,200
Special License		25	
Vessel	480	840	1,200

Amend the bill by replacing section 5 with the following:

5 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill adds military clubs and special licenses to the on-sale licensee fee schedule and agency stores to the off-sale licensee fee schedule.

The bill clarifies the applicability of the beverage vendor license fee.

The bill also extends certain prohibitions on certain competing interest applicable to the beverage industry to the wine and liquor industries as well.

SENATOR RUSSMAN: HB 1101 sets some monetary amounts for various licenses. The thing that it does primarily, and unfortunately, it isn't in your calendar. It was left out and actually Senator Disnard asked me about it, we discovered it in our conversations as to race-tracks and motor vehicles. It also left out sections 2, 3 and 4 of what we actually execed out of committee. I am not sure whether we ought to table it in order to have the corrected version put in or whatever the Clerk would suggest under the circumstances. It is more than just a typographical error.

Senator Fraser moved to have HB 1101-FN an act relative to certain liquor license fees and expanding certain prohibitions regarding competing interest in liquor and wine sales laid on the table.

LAIID ON THE TABLE

HB 1101-FN an act relative to certain liquor license fees and expanding certain prohibitions regarding competing interest in liquor and wine sales.

Adopted.

HB 1101-FN is laid on the table.

HB 1111, an act relative to liquor and beverage licensees delinquent in paying accounts and relative to advertising liquor and beverages. Ways and Means committee. Ought to Pass. Senator Russman for the committee.

SENATOR RUSSMAN: On 1111, this bill allows the state to take a license, essentially, for people who are delinquent in their bills. I guess the trade-off there is that the beer industry collects the tax money for us and so in theory at least, it is a reasonable thing to do. The other thing that it does is it talks about signs as far as internally illuminated and just changes the wording really from what the present law is, it says, 'either electric directly or indirectly to internally illuminate it'. So the committee voted unanimously, I believe, to pass the bill, so I would urge your support.

SENATOR HUMPHREY: What is the purpose of the new language, 'to with each table, wine vender license shall designate a license liquor and wine representative for its product'?

SENATOR RUSSMAN: Where are you reading from?

SENATOR HUMPHREY: Page two.

SENATOR RUSSMAN: Page two?

SENATOR HUMPHREY: The bold.

SENATOR RUSSMAN: Yes.

SENATOR HUMPHREY: What is a liquor and wine representative?

SENATOR RUSSMAN: A liquor and wine representative is essentially, a liquor broker, and they represent the various companies that sell the product. Just as a beer manufacturer represents the beer manufacturers.

SENATOR HUMPHREY: Why is a table wine vendor not allowed simply to sell it directly?

SENATOR RUSSMAN: Well, it is part of what in times I consider to be an archaic system the way it works, to say the least. That there has been a separation of beverage dealers and wine and spirit dealers and that type of thing. It has to do with the three tier system as well and it is all inter-connected in that respect. All that I can say is that it has worked profitably for a long time for the state of New Hampshire, and I suppose that is the reason that it has actually worked.

SENATOR HUMPHREY: Well, Mr. President, you can't attack the liquor commission sentence by sentence, but this is just more nonsense that protects vested interest. This protects distributors. In

this case, somebody who wants to sell wine has to sell the wine through a liquor distributor. It is a good deal for the liquor distributors, and in my view, it is a bad deal for consumers and it is an unfair deal for vendors. They ought to be able to, it is legal to sell any kind of alcoholic beverage, it ought to be legal to sell it directly to retailers without going through the middlemen. It is just wrong for us to protect middlemen and to stifle the marketplace. I mean this is just, wrong. I am not suggesting that we correct it here today. This is only a symptom of a big disease. I hope that one of these days we can introduce a little free enterprise into that system.

SENATOR MCLANE: Senator Humphrey, I know that you were on the Ways and Means committee and that we had seven bills dealing with various aspects of the liquor program, and I wonder if you know that there are many people who agree with you, that it is a too restrictive program, and perhaps, did you know, that people would be happy to work for you in the next session to come up with some changes in our liquor laws?

SENATOR HUMPHREY: Well, I thank the Senator for that question and I would welcome such help.

Adopted.

Ordered to third reading.

Senator Heath in opposition to HB 1111.

HB 1113, an act relative to compatible and conflicting liquor and beverage licenses. Ways and Means committee. Ought to Pass with Amendment. Senator Russman for the committee.

5755L

Amendment to HB 1113

Amend RSA 178:10, V as inserted by section 5 of bill by replacing it with the following:

V. A manufacturer distributing not more than 4,000 barrels of beverages within the state per year may sell beverages manufactured on his licensed premises directly to retail licensees subject to the provisions of RSA 178:30. The manufacturer of beverages distributing not more than 4,000 barrels of beverages within this state per year may not sell to wholesale distributors without obtaining a beverage vendor license as required by RSA 178:12.

AMENDED ANALYSIS

This bill requires table wine vendors to designate liquor and wine representatives for their products.

The bill clarifies the types of licenses a liquor and wine representative may hold.

The bill allows local producers distributing not more than 4,000 barrels of beverages within this state per year to sell directly to retail licensees, but prohibits them from selling to wholesale distributors without obtaining a beverage vendor license.

The bill divides supplemental licenses into special, seasonal licenses and fair licenses.

SENATOR RUSSMAN: Yes, I am going to ask that this bill be tabled because we are trying to work out what the understanding is going to be relative to the 4,000 barrels and the people that have their distributors and manufacturers license and it seems to be unclear. This bill and also another bill 1116 also be tabled, so that we can straighten that problem out.

Senator Heath moved to have HB 1113 an act relative to compatible and conflicting liquor and beverage licenses laid on the table.

LAIID ON THE TABLE

HB 1113 an act relative to compatible and conflicting liquor and beverage licenses.

Adopted.

HB 1113 is laid on the table.

HB 1114, an act adding and changing certain definitions in the liquor laws and relative to the transportation of wine and liquor. Ways and Means committee. Ought to Pass with Amendment. Senator McLane for the committee.

5771L

Amendment to HB 1114

Amend the bill by replacing all after section 6 with the following:

7 Liquor and Wine Import Warehouse License. Amend RSA 178:5, II to read as follows:

II. Import warehouse licensed under paragraph I may transport wine and liquor, **sold to the commission or through the commission to licensees**, from their own warehouses directly to state liquor stores and on-premise and off-premise licensees, **as applicable**, in accordance with rules adopted by the commission pursuant to RSA 541-A, for the purposes of enhancing service to the state and its licensed purchasers, increasing selection for the benefit of consumers, and reducing the operating expenses of the state.

8 Change in Definition. Amend RSA 178:20, V(e)(3)(B) to read as follows:

(B) "Public building" means any building maintained and available for any person, group or organization, which may include

retail business establishments, when they are not open to the public; licensed premises, provided there is a physical, unmovable barrier between the licensed business and the catered area; and tents, gazebos, or other defined outdoor areas, provided 2 separate toilet facilities are located in the immediate vicinity. A [private] **public** building shall [in no way] **not** be construed to mean a private residence.

9 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill adds or changes the definitions of "billboard," "common carrier," "happy hour," "public building," "private group," and "liquor and wine import warehouse" in the liquor laws.

The bill also allows liquor and wine import warehouse licensees to transport wine and liquor if the wine and liquor are sold to the commission or through the commission to the licensee.

SENATOR MCLANE: In the absence of Senator King, I will take this bill and say that this is a bill that came over from the committee in the House. There are merely changes in definition. I think perhaps it might point out very clearly the archaic system that we work under, but this is the reality of the moment.

Committee amendment adopted.

Ordered to third reading.

HB 1115, an act changing obsolete references within the liquor laws. Ways and Means committee. Ought to Pass. Senator Russman for the committee.

SENATOR RUSSMAN: On 1115, this bill, there were certain references that needed to be changed and also when the recodification went through of the liquor laws, there were some things that were left off of that that were simply overlooked by the recodification committee, and this tends to address those to make sure that the references are brought up-to-date and in compliance with what the recodification laws would be.

Adopted.

Ordered to third reading.

Senator Heath in opposition to HB 1115.

HB 1116, an act relative to certain liquor and beverage licenses. Ways and Means committee. Ought to Pass with Amendment. Senator Hollingworth for the committee.

5772L

Amendment to HB 1116

Amend the bill by replacing all after section 6 with the following:

7 Seasonal License. Amend RSA 178:31 to read as follows:

178:31 Seasonal License.

I. Notwithstanding any other provision of law, the commission may issue a seasonal license, which shall be valid for [120] 180 days from the date of issuance, to any individual, partnership, or corporation who is otherwise eligible for an on-sale license under RSA 178:19 or RSA 178:20, an off-sale license under RSA 178:16 or a license under RSA 178:17 or RSA 178:18.

II. No seasonal license shall be renewed, except for a full term license period expiring pursuant to 178:27, VII, unless 30 days have elapsed since the expiration of the seasonal license.

III. The fee for a seasonal license shall be 1/2 of the applicable yearly fee for the on-sale license or off-sale license under RSA 178:27.

8 Effective Date. This act shall take effect upon its passage.

SENATOR HOLLINGWORTH: HB 1116 accomplishes several things. First, it allows import warehouses to continue to do what they have been doing and there is only one in the state, but he has been transporting quantities of alcohol, three gallons in his daily course of operation and this bill only allows him to do what he has been doing. It just makes that legal. The second section of the bill is needed because of HB 1113 that was just tabled. That is the bill that deals with the 4,000 barrels of alcohol and allows for that manufacturer to sell direct sale of those barrels of beer. Section three of the bill during recodification, was left out, but that will come in as a floor amendment because there was an amendment and it said two hours rather than the three hours that it should have said, so that will be offered to you after this amendment is passed. What it did was during the recodification hotel restaurant lounges were allowed to be open and we said that all restaurant lounges should be afforded the same benefits, so this will allow them to be opened under the same conditions that restaurant lounges were. Section four of the bill, it clarifies how much beer and alcohol can be served to one person. Before it was a 32 ounce pitcher and that ran into complications because 32 ounce pitchers were not available in this state. It was one of those silly laws that we passed. But what this does is that it says that you can have any size pitcher, but you can only have 20 ounces of beer in front of you. It also establishes how much you should have as a mixed drink and that is four ounces of alcohol. Again, there might be, later on, as we work with the liquor laws, these sections may need to be changed, but we felt that this is the best that we can do at

this time with that. Section five of the bill, would allow for a seasonal business operator such as ski areas and seacoast areas to have a license that would be for half a year, before they were paying the full price for a full years license and only getting a license for one-third of the year. So this allows it to be increased from 120 days to 180 days. We feel that this is fair, and we think that it will bring in more license holders. Section six of the bill, has been moved to 1296 and that will be the amendment that I will be offering when I report out 1296 to you. All that deals with is racetrack owners being licensed under the pari-mutuel commission and I will discuss that with you when I talk about 1296. We would move ought to pass on this bill.

Senator Russman moved to have HB 1116 an act relative to certain liquor and beverage licenses laid on the table.

LAID ON THE TABLE

HB 1116 an act relative to certain liquor and beverage licenses.

Adopted.

HB 1116 is laid on the table.

HB 1117, an act relative to the minimum age requirements for liquor license applicants, relative to employing minors in licensed establishments, and relative to games and amusements on the premises of on-sale licensees. Ways and Means committee. Ought to Pass with Amendment. Senator Hollingworth for the committee.

5756L

Amendment to HB 1117

Amend the bill by replacing section 2 with the following:

2 Games and Amusements. Amend RSA 179:19, VI to read as follows:

VI. On-sale licensees may install [up to 3 coin-operated] amusement machines on their premises [at any one time]. Such machines may not be placed within the confines of a dining room of a full service restaurant. [Non-coin-operated games, such as backgammon, chess, and checkers, may be used without restriction in areas other than dining rooms of full service restaurants. A restaurant licensee with a dining room seating in excess of 250 persons may petition the commission in writing for permission to exceed the 3 machine limitation.] **Nothing in this paragraph shall be construed in any way to limit the powers of municipalities under RSA 31:41-d to adopt bylaws relative to licensing amusement machines and to determining the number, location, and types of machines allowed in the municipality.**

AMENDED ANALYSIS

This bill requires the owners, directors, and officers of businesses seeking liquor licenses to be at least 21 years of age.

The bill prohibits any minor under the age of 18 from working as a waiter, waitress or bartender for a dining room and minors under the age of 16 from certain tasks in dining room and lounges.

The bill also removes limitations on the number of amusement machines an on-sale licensee may have on the premises.

SENATOR HOLLINGWORTH: HB 1117 requires the owners, directors and officers of businesses seeking liquor licenses to be at least 21 years of age. The bill prohibits any minors under the age of 18 from working as a waitress, waiter or bartender for a dining room, and minors under the age of 16 from certain tasks, and allows them to perform certain tasks in dining rooms, but not to serve alcohol. Unfortunately last year during the recodification this caused a problem. The amendment to the bill deals with the machines, the amusement machines on sale licenses may have on the premises. There is a floor amendment which says that a municipality can determine the number and the location and the types of machines. The bill says that it removes a limitation on amusement machines, but leaves it up to the discretion of the municipality to establish what they would like to have in their community. We would like to move ought to pass with this bill.

SENATOR PRESSLY: Senator Hollingworth, could you speak further on the games and amusements section. I think that my concern might be shared by others to make sure that they are not gambling machines but simply . . .

SENATOR HOLLINGWORTH: There is no gambling in New Hampshire, it is not legal to have gambling in New Hampshire and this just says that it establishes that there will be no gambling, but they can have amusement machines on site.

SENATOR PRESSLY: Okay, Senator, thank you very much.

Committee amendment adopted.

Ordered to third reading.

HB 1201-FN, an act relative to the license fee structure for domestic wine manufacturers. Ways and Means committee. Ought to Pass. Senator Hollingworth for the committee.

SENATOR HOLLINGWORTH: The committee on Ways and Means would like to move ought to pass on 1201. All that this bill does is set up two standards of domestic manufacture's of wine. We heard testimony that someone who only produces 1,000 cases of wine per year

was unable to pay the high cost that we had for licensing. And this bill was set up for those who only produce under 1,000 cases, will pay \$100 per year, those who produce over that will pay \$1,140 a year for that license, which is the current law now. Massachusetts only charges \$100, and we have tried to bring that in line because we found that there were people who were moving across the border to produce grapes.

Adopted.

Ordered to third reading.

HB 1296, an act removing a prohibition on certain card games and permitting commercial motor vehicle racetrack facilities to make certain beverage sales. Ways and Means committee. Ought to Pass with Amendment. Senator Hollingworth for the committee.

5778L

Amendment to HB 1296

Amend the title of the bill by replacing it with the following:

AN ACT

relative to beverage and liquor licenses for
motor vehicle racetracks and removing
a prohibition on certain card games.

Amend the bill by replacing all after the enacting clause with the following:

1 Motor Vehicle Racetracks. Amend RSA 175:1, LVI to read as follows:

LVI. "Racetrack" means a facility which is licensed by the state's pari-mutuel commission, for pari-mutuel betting purposes **or a commercial motor vehicle racetrack facility with a paved course of at least 1/4 mile.**

2 Race Tracks; Cocktail Lounge Exception. Amend RSA 178:20, V(n) to read as follows:

(n) Race Tracks.

(1) The commission may issue to any operator of a race track or his designee a cocktail lounge license which shall allow the licensee to serve liquor and beverages to patrons in such rooms or areas as are located within the confines of the track and are approved by the commission and only during the hours set by the commission. [Such race track shall be licensed by the state pari-mutuel commission for pari-mutuel betting purposes.] Liquor and beverages sold by a licensee under this section need not be consumed with meals, provided that suitable food services, approved by the com-

mission, are available for patrons. A licensee under this section may sell beverages and liquor on dates other than those on which [pari-mutuel betting takes] races take place.

(2) Notwithstanding the requirements of RSA 178:20, II and V, a commercial motor vehicle racetrack facility with a paved course of at least 1/4 mile may elect to have an exception to the cocktail lounge definition of RSA 175:1, XXIII and requirements under RSA 178:20, V(r) to sell beverage only, from commission-approved beverage service facilities located in areas approved by the commission within the commercial motor vehicle race track facility and allow patrons to carry beverage, not exceeding 2 containers at any time as approved by the commissioner, to approved grandstand seating, other seating accommodations or areas approved for alcoholic beverage consumption by the commission under such rules as the commission may adopt pursuant to RSA 541-A.

3 Race Tracks. Amend RSA 178:27, I to read as follows:

I. On-sale licensees shall pay the following applicable fees annually:

	Supplemental Only	Beverages and Wine	Beverages and Liquor	Cocktail Lounge
Airport				\$1,200
Alpine Slide				1,200
Ballroom	\$45			1,200
Bed and Breakfast		\$480	\$840	
Bowling Facility				1,200
Catering (all)				1,200
Catering (off-site only)				840
Catering (on-site only)		18 events - 450 36 events - 750 52 events - 1,200		
Club Social		18 events - 450 36 events - 750 52 events - 1,200		1,200
Club Veterans		18 events - 450 36 events - 750 52 events - 1,200		840
College Club				1,200
Convention Center				2,400
Dining Car		480	840	
Fairs		112		
Golf Facility				1,200
Hotel			840	1,200
One Day License				100
Performing Arts				360

Race Track/Motor Vehicle			1,800
Race Track/Pari-Mutuel			3,000
Racquet Sports			1,200
Rail Cars			1,200
Restaurant	480	840	1,200
Ski Facility			1,200
Vessel	480	840	1,200

4 Gambling or Wagering Prohibited. Amend RSA 179:19, VII to read as follows:

VII. On-sale licensees shall not allow [card games] **gambling or wagering** on their premises[, except that golf clubs, veterans' clubs, social clubs, and military clubs may allow card games, provided that no gambling or wagering shall be allowed].

5 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill adds motor vehicle racetracks to the on-sale licensees fee schedule.

The bill defines motor vehicle racetracks as those facilities with a paved course of at least 1/4 mile.

This bill permits commercial motor vehicle racetrack facilities to elect to sell beverages to patrons who may carry the beverages to certain approved facility seating.

This bill removes a prohibition on card games on the premises of on-sale licensees. It prohibits gambling or wagering on the premises of on-sale licenses.

SENATOR HOLLINGWORTH: The committee on Ways and Means would ask ought to pass with amendment. What this bill does is to allow license holders to have tournaments on site. We have testimony from the liquor commission saying that they had many calls, people wanted to have chess tournaments and other tournaments on site and because we have this law that says that you can't do that, people weren't able to have cribbage tournaments and etc, so the commission supports that legislation that would remove the requirement or against having those kinds of card games on site. Secondly, the bill would allow the sale of alcoholic beverages, beer, at race-tracks and allow for racetracks to have two types of licenses. They can have a cocktail lounge type or they can just have a beer license where they may sell to someone, beer in a restricted area, and the beer that they would take back to this restricted area could not exceed two containers. It also contains a section that has been tabled that was in the other bill that I started to talk to you about which dealt with the racetracks. It says that you no longer have to be licensed by the pari-mutuel commission to have a liquor license at a

racetrack since the pari-mutuel motor vehicles speedways do not have any involvement at all in that.

SENATOR ST. JEAN: Senator Hollingworth, it is my understanding that this now would include, the tracks that we are talking about are Loudon, Hudson, Star, Lee, New England Dragway, Monadnock and probably Claremont, which it is my understanding that these are 1/4 mile tracks. I think that there may be one in the north country also. Is that your understanding that these tracks would be included?

SENATOR HOLLINGWORTH: The law will say that any track that is paved and is a 1/4 mile was allowed to be able to apply for a liquor license.

SENATOR ST. JEAN: It is my understanding also that it will take effect upon passage?

SENATOR HOLLINGWORTH: That is correct, Senator.

Committee amendment adopted.

Ordered to third reading.

REPORT OF THE COMMITTEE ON ENROLLED BILLS

Enrolled Bill Amendment to HB 326

Amend RSA 318:30-a as inserted by section 11 of the bill by replacing line 6 with the following:

and combined with a hearing notice which complies with RSA 318:31, II and

Senator Currier moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled:

HB 1407, repealing laws relative to abortion.

HB 564, enabling towns and cities to establish heritage commissions.

HB 569, to reapportion county commissioner districts.

HB 1110, relative to the method of electing delegates to state party conventions.

HB 1108, authorizing valid living wills executed in other states to be recognized in New Hampshire.

HB 1144, relative to the examination of school bus operators.

HB 1173, allowing a beneficial interest owner of a trust owning real estate to qualify for property tax exemptions and credits and allowing the veterans' exemption for service in the Gulf War.

HB 1187, making it first degree assault to knowingly or recklessly cause serious bodily injury to a person under 13 years of age.

HB 1192, relative to remedies under the whistleblowers' protection act.

HB 1213, clarifying that notice of claim of paternity be filed prior to a mother's voluntarily relinquishing her rights pursuant to an adoption.

HB 1217, requiring a peace officer to give written notice of certain charges to the county attorney.

HB 1220, changing the method for calculating stumpage values for purposes of assessing the yield tax on timber.

HB 1327, prohibiting the state or any of its political subdivisions from requiring public assistance applicants to cross picket lines to apply for jobs.

SB 342, relative to resisting arrest or detention.

SB 359, relative to expending moneys by the OHRV bureau for trial maintenance expenses.

SB 360, establishing a committee to study head injury cases in New Hampshire.

SB 380, relative to membership on planning boards in towns with the town council form of government.

SB 387, authorizing legally constituted boards and commissions which are created for the purpose of state historic site restoration the option of retaining ownership of any historic site furnishings which they acquire with other than state funds.

SB 391, relative to the use of surplus campaign contributions by candidates for state office.

SB 398, permitting the sale of red deer and elk venison.

SB 404, relative to chiropractic practitioners and privileged communications.

SB 432, relative to motorcycle noise level limits.

ANNOUNCEMENTS

Senator Currier moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that when we adjourn, we adjourn until Thursday, April 16, 1992 at 10:00 a.m.

Adopted.

LATE SESSION

Third Reading and Final Passage

HB 411, an act relative to discrimination in the issuance of health insurance policies and relative to access to group plans.

HB 470, an act relative to health maintenance organizations.

HB 1111, an act relative to liquor and beverage licensees delinquent in paying accounts and relative to advertising liquor and beverages.

HB 1114, an act adding and changing certain definitions in the liquor laws and relative to the transportation of wine and liquor.

HB 1115, an act changing obsolete references within the liquor laws.

HB 1117, an act relative to the minimum age requirements for liquor license applicants, relative to employing minors in licensed establishments, and relative to games and amusements on the premises of on-sale licensees.

HB 1129, an act designating the insurance department as the regulatory body for approval of motor vehicle warranty agreements.

HB 1140, an act relative to exempting New Hampshire banks from acquisitions by out-of-state banks.

HB 1153-FN-A, an act authorizing the division of human services to assess an administrative fine on employers for failing to comply with an assignment order.

HB 1154, an act relative to an exemption for the sale of hypodermic syringes for school use.

HB 1172, an act increasing the amount of the homestead right.

HB 1178, an act extending the appropriation for the Manchester district court facility.

HB 1201-FN, an act relative to the license fee structure for domestic wine manufacturers.

HB 1219-FN, an act relative to recovery of assistance under the medicaid program.

HB 1227-A, an act decreasing the bonding authorized relative to the Manchester access ramp project.

HB 1269-FN, an act separating the AFDC standard of need from the AFDC payment standards and increasing the AFDC standard of need.

HB 1296, an act removing a prohibition on certain card games and permitting commercial motor vehicle racetrack facilities to make certain beverage sales.

HB 1350, an act revising the laws that require a prescription to purchase a hypodermic needle.

HB 1361, an act establishing a committee to study state motor vehicle fleet management.

HB 1429, an act relative to accounting for land use change tax funds.

HB 1465-L, an act relative to the taxation and transfer of restricted land.

HB 1492-A, an act eliminating the capital appropriation for the demolition of the Walker building.

HCR 24, a resolution urging the President to establish a commission to review access to current health care systems and to adopt unified access to health care in this country and urging Congress to enact recommendations of the commission.

Senator Currier moved that we adjourn.

Adopted.

Adjournment.

April 16, 1992

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by the Rev. David P. Jones, Senate guest Chaplain.

Members of the clergy and holders of public office seem to love to have their names known well and remembered long. Do not forget that of all the ships which ever sailed the seas, the name best known and most remembered is the name of that ship which sank to the bottom eighty years ago yesterday. The name is Titanic. And there is a lesson in that for clergy, for politicians and for all the rest of us. So let us pray:

Father in heaven, behold this crew of the ship of our state. Help them to navigate with humility and not with reckless arrogance. And let them never be content with the mere rearrangement of the deck chairs.

Amen

Senator Humphrey led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

NOTICE OF RECONSIDERATION

Senator W. King served reconsideration on HB 1117 an act relative to the minimum age requirements for liquor license applicants, relative to employing minors in licensed establishments, and relative to games and amusements on the premises of on-sale licensees.

COMMITTEE REPORTS

HB 1386-FN-A, establishing a foundation aid formula study committee, authorizing the committee to hire a consultant to study different methods of financing education and making an appropriation therefor. Education committee. Ought to Pass. Senator J. King for the committee.

SENATOR J. KING: This bill was conceived by two bills that were in the 1991 session, one from the House and one from the Senate, relative to change in a distribution formula and working on the Augenblick formula. As a result of the merger, a study formula was set up. To have a different study committee, we appointed Superintendents, School Board members in the towns and the Chief Executives of the city or towns. Three of the places were from the towns that got the least amount of or no money from the sweeps, and three were from the cities or towns that got the majority that they could get at that setting. We spent at least 10 or 12 meetings during the summer and as a result of that there was so much discussion over the Augenblick formula itself, a few mistakes in it were corrected last year, where one town got more money than it actually spent for education. There are a few other areas in there that they wanted to fix. The result of that was the recommendation to set up a task force with a consultant with the knowledge of the Augenblick formula and to bring back a report to the President of the Senate and the Speaker of the House, and the Governor, by the end of the summer.

SENATOR PRESSLY: I rise to commend Senator King for his efforts in this area and also applaud the concept. I will just tell you one thing that has happened in Nashua to maybe bring home to you the feelings and the concerns. The only way that our school board felt that they would get any state money was that they, together, went

out and bought a sweepstakes ticket. The fact that zero money is coming to some of these cities and towns is totally unacceptable. So I applaud this effort, and I hope that something good will come of it by next session. Thank you, Senator King.

Adopted.

Referred to Finance (Rule #24).

HB 1451-FN, relative to the transportation of pupils living within a certain distance from the school to which they are assigned. Education committee. Ought to Pass. Senator Disnard for the committee.

SENATOR DISNARD: This bill was recommitted to the committee because questions were asked regarding new mandates, which there are none, but the question relative to 189:7, was asked, and that was the reason for recommit. The question pertained according to and with some research, the section that was in question was repealed in 1969. I spoke to the people that wanted this recommitted, and they had no problem.

Adopted.

Ordered to third reading.

HB 646-FN, relative to the disposal of certain solid waste products and leaf and yard waste. Environment committee. Ought to Pass with Amendment. Senator Russman for the committee.

5823L

Amendment to HB 646-FN

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; Generator Defined. Amend RSA 149-M:1 by inserting after paragraph VIII the following new paragraph:

VIII-a. "Generator" means any person who owns, operates, leases or rents any real property where leaf and yard waste is generated.

2 New Paragraph; Transporter Defined. Amend RSA 149-M:1 by inserting after paragraph XXIII the following new paragraph:

XXIII-a. "Transporter" means any person who transports solid waste.

3 Composting Facility Added; Leaf and Yard Waste Disposal Restricted. Amend RSA 149-M:22, V to read as follows:

V. Beginning January 1, 1991, no wet-cell batteries shall be disposed of in a solid waste landfill facility **or composting facility** or [incinerated] **incinerator**, whether in a waste-to-energy facility or otherwise.

VI. Beginning July 1, 1993, no leaf or yard waste shall be disposed in a lined solid waste landfill or incinerator including any waste to energy facility. This paragraph shall not apply to municipalities organized under RSA 53-A, RSA 53-B, or 1986, 139, if application of the paragraph would cause the municipality to violate or incur penalties under legal obligations existing on the effective date of this paragraph. Any generator or transporter who violates this paragraph shall be subject to the penalties and enforcement provisions of RSA 149-M:12.

4 Certain Holding Devices Prohibited. Amend RSA 339:72, I to read as follows:

I. No person may sell, or offer for sale, containers connected to each other by a holding device, unless this device [decomposes by photodegradation, chemical degradation or biodegradation] **degrades within [6] 12 months after exposure to the natural elements and is recyclable.**

5 Effective Date. This act shall take effect January 1, 1993.

SENATOR RUSSMAN: This bill had to do with, I believe, I don't have my notes with me. If I could just have a second to pull them out.

Recess.

Out of recess.

SENATOR RUSSMAN: This bill deals with leaf and yard waste in the way that it is suppose to be disposed as opposed to being eventually . . . it would not be put in a landfill or incinerator, it would be turned into compost. This bill takes care of that, and the amendment in the Senate calendar speaks to the issue in terms of how that is suppose to happen, but basically, it would make it after 1993, a violation to put it in a line not unlined, but a lined landfill or an incinerator. I don't believe that there was any opposition to it as amended.

Committee amendment adopted.

Ordered to third reading.

HB 1344, requiring the house environment and agriculture and the senate environment committees to review the laws relative to solid waste management. Environment committee. Ought to Pass with Amendment. Senator Fraser for the committee.

5812L

Amendment to HB 1344-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT

requiring the house environmental and agriculture and the senate environment committees to review the laws relative to solid waste management and authorizing a municipality to issue bonds to pay the costs of the cleanup of superfund hazardous waste sites.

Amend the bill by replacing all after section 1 with the following:

2 New Sections; Superfund Site Cleanup. Amend RSA 33 by inserting after section 3-d the following new sections:

33:3-e Superfund Site Cleanup Bonds Authorized. A municipality may authorize the issuance of bonds, payable within 20 years from their dates of issuance, in order to pay all response costs associated with the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. section 9601 et seq. ("CERCLA"), national priorities list site ("superfund site") in which the municipality is a named potentially responsible party. Response costs shall include, but not be limited to, costs incurred for investigation, design, remedial action, legal fees and costs, consulting fees and costs, and other costs associated with the superfund site. Any debt incurred for this purpose shall be outside the debt limit prescribed in this chapter. Such debt shall at no time be included in the net indebtedness of any municipality for the purposes of determining its borrowing capacity. In the sole discretion of the municipality, it may extend the benefits of this bonding authority to one or more of the other potentially responsible parties at the superfund site. If a municipality elects to extend such benefits, its governing body shall enter into agreements with such other potentially responsible parties, in such form as it shall deem appropriate, to provide for payments to the municipality to pay principal and interest and other related costs of the bonded indebtedness incurred by the municipality on behalf of the other party or parties. For the purposes of this subdivision, "governing body" means the board of selectmen in a town, the board of aldermen or council in a city or town with a town council, the school board in a school district or the village district commissioners in a village district, or when used to refer to unincorporated towns or unorganized places, or both, the county commissioners.

33:3-f State Guarantee.

I. The governor and council may award an unconditional state guarantee of the principal of and interest on bonds issued under

RSA 33:3-e. The full faith and credit of the state shall be pledged for any such guarantees of principal and interest. The amount of the state guarantee available under this section shall not exceed the following principal amounts, plus interest:

- (a) Effective upon passage \$25,000,000
- (b) For the fiscal year 1994-1995, an additional 25,000,000
- (c) For the fiscal year 1995-1996, an additional 10,000,000
- (d) For the fiscal year 1996-1997, an additional 10,000,000
- (e) For the fiscal year 1997-1998, an additional 10,000,000

II. The total amount awarded under RSA 33:3-e and this section to any one superfund site, however, shall not exceed \$20,000,000, plus interest. The governor, with the advice and consent of the council, is authorized to draw his warrant for such a sum out of any money in the treasury not otherwise appropriated, for the purpose of honoring any guarantee awarded under this section. The state's guarantee shall be evidenced on each guaranteed bond by an endorsement signed by the state treasurer in substantially the following form:

The state of New Hampshire hereby unconditionally guarantees the payment of the whole of the principal and interest thereon of the within bond and for the performance of such guarantee the full faith and credit of the state are pledged.

State Treasurer

III. In connection with the award of a state guarantee, the governor and council may impose such terms and conditions as they may deem appropriate concerning the bonds and reimbursement to the state if any state funds are used to honor the guarantee. Such terms and conditions may be contained in an agreement between the state and the municipality, to be executed on behalf of the state by the governor and the state treasurer and on behalf of the municipality by its governing body.

IV. Nothing in this subdivision shall be construed to affect in any way the ultimate liability of any party, under state or federal law, for hazardous waste cleanup costs.

3 Effective Date.

I. Section 1 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect July 1, 1992.

AMENDED ANALYSIS

This bill requires the house environment and agriculture and the senate environment committees to review the laws relative to solid waste management and to introduce legislation in the 1993 legislative session pertaining to the recodification of these laws.

This bill also authorizes the issuance of state guaranteed bonds to pay municipal cleanup costs for superfund hazardous waste sites. The bonds would total \$20,000,000 per superfund site, with the cap on the bonding amount for all sites set at \$80,000,000 over a 7-year period.

SENATOR FRASER: Mr. President, this bill has been amended. The amendment appears at the bottom of page 18. What the bill does now, is create authority for superfund cleanup. What the bill in effect does, is it allows communities to bond outside of the existing bonding limits to pay for the cost of cleanup of superfund sites. It allows communities to bond cost of cleanup for other, Pease. It provides for the full faith and credit of the state to back up the municipal bonds up to \$20,000,000 per superfund site. It establishes a statewide cap of up to \$80,000,000 to be available over a period of seven years. And last but not least, it provides the Governor and Council approval authority for the issuance of these bonds. Mr. President, this is an extremely important piece of legislation, and I urge its adoption by the Senate.

SENATOR HUMPHREY: Senator Fraser, how does this interface with the federal program?

SENATOR FRASER: That is exactly what this is doing, Senator. I will defer to Senator Shaheen, she knows a great deal more information than I do.

SENATOR SHAHEEN: Actually the federal superfund law doesn't provide any money for cleanup of sites, what it does provide, is to go after the people who are actually, the people who have dumped the waste. What that has meant is that the communities . . . there are four superfund sites in the state where municipalities are facing major costs of cleanup that are extraordinary beyond their ability to pay. One of those is Dover, where the Tolend road landfill is going to cost between \$31,000,000 and \$36,000,000 to cleanup. Now the city of Dover is responsible for a large portion of that as is the town of Madbury. There are also 31 other potentially responsible parties. But for the town of Dover to be able to come up with the estimated \$16,000,000, that is their share of the cost, is just an extraordinary amount of money. This is an effort to get the state involved in providing some assistance to those communities without having the state actually put up any money for the cleanup.

SENATOR HUMPHREY: Senator Shaheen, well under the federal program, ultimately, when the liability is accessed and money is collected that is intended to be devoted to cleanup, in the event that occurring at one or more of the sites, is there some recovery here, how would it work in that event?

SENATOR SHAHEEN: Well the Tolend side, the city of Dover and the other PRP's, have been negotiating with the EPA on the cost of cleanup. The other PRP's are going to have to come up with some of that money. But unfortunately, because Dover is one of the parties liable, they have to come up with a significant share. So they are involved in the federal program, they have to negotiate according to the superfund law, they have to have their cleanup be approved by the EPA, but they still have to come up with the money and that is the difficulty. In Dover's case for example, the cost of cleanup is going to be more than the cities ability to bond for any one year. It is a tremendous long-term cost.

SENATOR HUMPHREY: In any event, the communities are bearing the cost, and the state's role here is to guarantee the repayment of the bonds, is that correct?

SENATOR SHAHEEN: That is right. In Dover's case, with the state guarantee, the city would be able to bond and save about \$117,000 for every million, whereas if they had to bond under their own authority without the state's guarantee, it would be much more costly, the bonds would be harder to sell.

SENATOR HUMPHREY: Thank you.

SENATOR HOLLINGWORTH: Senator Fraser, isn't it true that the Governor sent someone to speak in favor of this legislation and felt that it fit very well within the bonding rate, and that it was a proper piece of legislation to bring before us?

SENATOR FRASER: That is correct, Senator.

Committee amendment adopted.

Ordered to third reading.

HCR 21, urging the U.S. Congress to adopt uniform recycling product labeling standards based on standards developed by the Northeast Recycling Council. Environment committee. Ought to Pass. Senator Fraser for the committee.

SENATOR FRASER: Mr. President, HCR 21 calls upon Congress to deal specifically with the reuse, recycling recycled contents of products and packaging. This resolution endorses and is based on a regional labeling standards that are as a result of two joint efforts. One being the Northeast Recycling Council and the other being the Coalition of Northeast Governor's. Both had started their work inde-

pendently on recycling standards and ended up by working jointly on it, and the result of their efforts was that these label standards which you have before you. We would urge the Congress to adopt these standards and we urge the Senate to pass this resolution.

Adopted.

Ordered to third reading.

HB 477-FN, relative to public hearings, notice, and the filing of rules under the administrative procedure act. Executive Departments committee. Inexpedient to Legislate. Senator Currier for the committee.

SENATOR CURRIER: This bill deals with the filing of notices with regard to rulemaking changes. It came to the attention of the Executive Departments committee that the cost of this notice was so exorbitant in terms of dealing with each notice of every occupational license, that each time a rule change was made that it would be so costly that it would really almost be prohibited. The Senate has passed to the House a version of this bill in the economic development plan, and so the committee felt that this was unnecessary at this time.

Committee report of inexpedient to legislate is adopted.

HB 1126-FN, allowing the public utilities commission to appoint a receiver or to take over the operations of any utility with annual revenues below \$2,000,000 which fails to provide adequate service. Executive Departments committee. Ought to Pass. Senator Pressly for the committee.

SENATOR PRESSLY: HB 1126 is a consumer protection bill. It will allow the Public Utilities Commission to intervene in an emergency situation for small utilities for whatever reasons are unable to continue their service. Interestingly enough, the utility most frequently effected by this or one of the utilities that prompted this legislation, is the telephone company, which we thought was rather interesting. We think that it is good legislation, and we think that it is in the best interest of the constituents. The authority, by the way, is temporary until the utility is able to make their own arrangements. The recommendation is ought to pass.

Adopted.

Ordered to third reading.

HB 1151, establishing a committee to study the economic feasibility of utilizing vacant space at the New Hampshire hospital for certain state offices. Executive Departments committee. Ought to Pass. Senator Fraser for the committee.

SENATOR FRASER: Mr. President, as you recall last week we took out the funding to raze the Walker Building which is on the grounds of the State Hospital. What this bill, HB 1151, does is that it establishes a task force to determine the feasibility of using and utilizing that space for state offices in the future and we urge its adoption.

SENATOR BLAISDELL: Mr. President and members of the Senate, I highly agree with what Senator Fraser is doing. There was some of us who opposed what was happening to the Walker Building, and I think that my point in standing before the Senate is to ask if we in this study or if not, maybe the Senate President or somebody can, when we heard on the floor of the Senate the other day, that some of the small towns are paying \$224,000 to send people out of the state of New Hampshire to facilities in Massachusetts and other areas, I have some in my town, Westmoreland and places like that that are paying \$150,000 for one child. I just wonder if maybe the task force couldn't be expanded to find out why we are not using that space and bring those unfortunate children back to the state of New Hampshire and be able to do it at a lot less than the \$224,000 or the \$150,000. We did it with the Philbrick Center, and we are doing an excellent job over there; and I think that that is one area that we ought to be looking at in this state, because we could cut that cost, not only in half, but you could cut it by almost 90 percent, as far as I am concerned. I think that we are capable in this state of being able to take care of the unfortunate children that we have, and the problems that they have. I would hope that they would look at that. I would hope that that task force would expand and use that space that we have over there to take care of some of the very serious problems that we have in this state. Thank you.

Adopted.

Ordered to third reading.

HB 1161, relative to the composition of the wetlands board. Executive Departments committee. Ought to Pass. Senator Colantuono for the committee.

SENATOR COLANTUONO: Presently the Wetlands Board is comprised of 11 individuals, eight of whom are ex-officio under the statute, and three are public members appointed by the Governor. Under the statute, the public members represent certain constituencies. One is from the Conservation Commission, another is an elected municipal official, and I forget what the other one is, I think they have to do with a Conservation Commission also. This bill would add a twelfth member to the Wetlands Board who shall be a

member of the construction industry at the time of appointment and be nominated by the Governor. During the hearing it came up that the type of person who might be appointed could be a soil scientist employed by the construction industry, a wetlands expert, someone with knowledge who could assist the board in making sound decisions, but who also comes from the point of view of the private sector. It was felt that it would broaden the experience on the board, broaden the expertise and be something good for all the people of the state. So it passed the House, I believe, on the consent calendar, and the committee recommends ought to pass.

SENATOR W. KING: Senator Colantuono, are you aware that the Senate Environment committee had this proposal before them in the last session, and that after a lot of consideration and discussion about this, we decided not to accept this bill? We decided to kill this bill because it favored one specific industry over merely providing another appointment for the Governor if he or she wanted to appoint somebody from that industry?

SENATOR COLANTUONO: No, Senator, I wasn't aware of that.

SENATOR RUSSMAN: I would like to rise in strong opposition to this bill. As Senator King said, last year we voted the same thing down, and so it comes back this year reincarnated in a form of a different committee. I think that as a practical matter, why not put somebody out there from perhaps the septic installers or something as opposed to the construction industry itself, while maybe it would be good if it was a soil scientist that was in the construction industry, but there is nothing in the bill that says that. I mean we just went through the largest boom that New Hampshire had ever witnessed, matter of fact, almost any state in the union has ever witnessed, with no difficulty, and no concern about that, and now for some reason, we have to turn that around and say that we need a member of a special interest group. Right now it is composed of Municipal Association people, association conservation districts, association of conservation commissions, there has to be elected municipal officials on this. You bring a sense of reason to the board as it is without a particular special interest being involved or affected. That to me, represents just a terribly and poor type of legislation to try and pass after we just killed the bill last year. There has been no demonstrated need of it, none whatsoever. So I urge my fellow colleagues to vote against the bill and overturn the committee report.

SENATOR J. KING: I stand in support of the bill as amended, and whereas the building and construction industry has so much to do with wetlands that it is so wise, the input that they could provide would be quite helpful to them. If a commission is set up, it is to get

information. The building industry can provide the information relative to their . . . which is a big business in the state of New Hampshire. To leave them out, I think, would be wrong. If there is some other agency or some other thing as time goes on that they can provide their input and together come out with the best idea of all, then, I think, they should be added. The only thing that I don't agree with, but I will go along with it so it won't hold it up, I think that it should be appointed by the construction industry and not by the Governor.

SENATOR W. KING: Senator King, would you define the construction industry for me?

SENATOR J. KING: I would say the road builders, the house builders, the big business construction companies, the people who have developments, it could be a multitude of things, anything that has to do with the building and construction. I think that they should be represented, because that is a big industry in the state of New Hampshire, and it does affect the earth probably more directly than probably any other group at all in the state.

SENATOR W. KING: I will be very brief. I believe that it is worth taking a look at the Wetlands Board to see if there is a way that we can provide a reasonable balance on it in terms of business interest. But the members of the Environment committee came to the same conclusion last year that I have come to again today, and that is that we should not place one specific special interest industry. That if indeed it is felt that there has to be more of a business interest on the Wetlands Board, then we should make that a generic business interest as opposed to saying that we are going to favor one industry over another on that board. So I would urge the members of the Senate to vote against the committee recommendation.

SENATOR COLANTUONO: I guess this is a question of the Chair. Is this a bill that might get referred to Economic Development considering the nature of it?

SENATOR DUPONT (In the Chair): Senator, I believe not, given the nature of it. I would not at this point in time intend to recommend that it go to the Economic Development committee.

SENATOR COLANTUONO: This Senate has gone on record in the past two years as being greatly in favor of economic development in the economic interest of the state. During the hearing, the members of the construction industry came to us and said that there needs to be a greater voice for those interests on this board. I think that if we want to be consistent in our efforts to help various segments of our industries and businesses in this state, this is a very modest mea-

sure. It is not going to have much affect when votes are taken, because the board already has 11 people and this would just add number 12. I think it is a fair measure and we are reaching out to an industry or a segment of our business community that feels left out of this process. I would urge the members to vote favorably for this.

SENATOR HOLLINGWORTH: John, do you sit on this committee that heard this bill?

SENATOR J. KING: Yes, I do.

SENATOR HOLLINGWORTH: When we heard this similiar bill last session, we really didn't hear that the Wetlands Board in any way had done anything that was inappropriate. In fact, we heard no evidence that they hadn't done an excellent job. I am wondering why at this time, was there any evidence in your hearing that indicated that they haven't been doing the job that they were assigned?

SENATOR J. KING: Some of the consensus that I drew from it was, that if they were part of it, they could provide some good input to it. Just listening to good testimony isn't the same as just sitting down with a group and participating, and also have the right to make a decision. I think that where the construction industry has so much relation to the environment, that with one member on there, as compared to six or seven on the environment, the best that they can do is to provide input; and then by the two groups being together, it might cause a lot less troubles in the future, because they will both be participating and making the decisions for both.

SENATOR HOLLINGWORTH: Senator King, isn't it true that the building trades, any of them, can go into any of the hearings and speak on any of the issues that are brought before the board?

SENATOR J. KING: Yes, anybody can. But it is like anything else, if you don't have any real say in the thing, even if you protest or go along with it, if you don't have a vote, you can say anything you want to. So I think that the idea that they can participate and also have a say in the agreement, even though it isn't much of a say out of the seven or eight people, I think that it should be there. I think that it might eliminate a lot of pitfalls in the future.

SENATOR HUMPHREY: Senator King, I see both the advantages and the disadvantages in this proposal. I wonder if there isn't a way to have the best of both worlds, and that is to reserve a seat for one representative of the construction industry, but to make him a non-voting member of the commission. I do think that there probably is a need for a bit of real world realism in the proceedings of the board. I have heard some horror stories about the regulatory process as it

affects the construction industry. I wonder if that isn't an approach to this concern that would leave everyone happy.

SENATOR J. KING: I would think that your suggestion is much better than the one that someone else just suggested just a few minutes ago. I would say that that is a step in the right direction, but I would still rather see a person on there that could participate in a vote, put his input in there from a business that is involved quite a bit. They should have an input on this thing. I think that is any commission. If you can't see both sides or all sides of the view, and they still control the vote if they don't want it. I can't see trying to buy them out. If there is some other agency or some other group that should belong in there, I even think that they should participate, if they come up and show that they can come out with better decisions. That is what you want, a better decision in the long run. If you eliminate people that want to participate and they are very much involved in it, and you don't let them take part, it is not too democratic.

Recess.

Out of recess.

SENATOR RUSSMAN: Senator King, are you aware that in addition to the statute, that the members in the bill, the other people that sit on there are department heads or their designees or Office of State Planning, Department of Transportation, Department of Safety, Department of Waste Management, Water Resources, and a number of other department heads or their designees sit on the Wetlands Board at the same time to bring that balance. Were you aware of that?

SENATOR W. KING: Yes, I am, Senator Russman. I am looking at it right here.

SENATOR J. KING: Senator Russman, do you believe that Del Downing was at the thing and he did not have any real objections to the addition of this member?

SENATOR RUSSMAN: I am sure with some pressure, perhaps that may be the case.

SENATOR DISNARD: Senator Russman, would you believe that the constituents out there would like to see people besides bureaucrats, past bureaucrats on this committee and this could be looked at as a good consumer bill?

SENATOR RUSSMAN: Well I think as a practical matter, most of the people on here are not bureaucrats in terms of some of the public members and some of the other members who sit on there. I mean,

while there are some that certainly are, there are some that are not. So I think that there is already a broad balance from even, as I said, from the office of state planning and DOT and all the way over to the Conservation Commission. So there is quite a broad spectrum at this point.

SENATOR DISNARD: Would you believe that one should be a supervisor and one should be a former supervisor, municipal member? I fail to see where they are not former bureaucrats, that they are bureaucrats.

SENATOR RUSSMAN: Well it does say former, right?

Question is on the committee report of ought to pass.

A division vote is requested.

Yeas 9

Nays 10

Committee report fails.

Senator Russman moved inexpedient to legislate.

Question is on the motion of inexpedient to legislate.

A division vote has been requested.

Recess.

Out of recess.

The question is on the motion of inexpedient to legislate.

A roll call was requested by Senator Colantuono.

Seconded by Senator Heath.

The following Senators voted Yes: Oleson, W. King, Blaisdell, Bass, Pressly, McLane, Russman, Shaheen, Delahunty, Hollingworth, Cohen.

The following Senators voted No: Heath, Fraser, Dupont, Disnard, Roberge, Colantuono, Podles, Humphrey, J. King.

Yeas 11

Nays 9

HB 1161 is inexpedient to legislate.

HB 1298, allowing any municipal fire or police department, or independently emergency service, to record incoming and outgoing central dispatch and emergency telephone calls. Executive Departments committee. Ought to Pass with Amendment. Senator Colantuono for the committee.

5844L

Amendment to HB 1298

Amend the bill by replacing sections 1 and 2 with the following:

1 Definition of "Electronic, Mechanical, or Other Device" Changed.
Amend RSA 570-A:1, IV (a) to read as follows:

(a) Any telephone or telegraph instrument, equipment, facility or any component thereof:

(1) Furnished to the subscriber or user by a communication carrier in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business or furnished by such subscriber or user for connection to the facilities of such service and used in the ordinary course of its business; [in accordance with applicable provisions of telephone and telegraph company rules and regulations, as approved by the public utilities commission;

(2) Purchased, rented or used by the subscriber or user; or

(3)] (2) Being used by a communication common carrier in the ordinary course of its business, or by an investigative or law enforcement officer in the ordinary course of his duties **pursuant to this chapter;**

2 New Subparagraphs; Recording Calls; Warning Device. Amend RSA 570-A:2, II by inserting after subparagraph (g) the following new subparagraphs:

(h) Any municipal fire or police department or any independently owned emergency service, and their employees in the course of their employment, when receiving or responding to emergency calls, to intercept, record, disclose or use a wire communication, while engaged in any activity which is a necessary incident to the rendition of service or the protection of life or property.

(i) Any public utility regulated by the public utilities commission, and its employees in the course of employment, when receiving central dispatch calls or calls for emergency service, or when responding to central dispatch calls or calls for emergency service, to intercept, record, disclose or use a wire communication, while engaged in any activity which is a necessary incident to the rendition of service, or the protection of life and property. Any public utility recording calls pursuant to this subparagraph shall provide an automatic tone warning device which automatically produces a distinct signal that is repeated at regular intervals during the conversation. The public utilities commission may adopt rules relative to the recording of emergency calls under RSA 541-A.

AMENDED ANALYSIS

This bill allows a municipal fire or police department, or independent emergency service, and its employees in the course of their employment to record any incoming or outgoing central dispatch and emergency service calls when engaged in any activity which is a necessary rendition of service or is for the protection of life and property.

This bill also allows a public utility and its employees in the course of employment, when receiving central dispatch calls or calls from emergency service, or when responding to central dispatch calls to intercept, record, disclose or use a wire communication while engaged in any activity which is a necessary incident to the rendition of service or the protection of life and property. Any public utility recording a call under this provision shall use a warning device that produces a distance signal at regular intervals.

The bill makes a technical correction in the definition of "electronic, mechanical, or other device."

SENATOR COLANTUONO: This bill was initially designed to clarify that under the state wiretapping law, Police and Fire Officials who are taping incoming emergency calls can do that without violating the wiretap law. The amendment on page 17 was added to also make it possible for any public utility regulated by the PUC to record calls from people who have emergencies to report concerning wires down or gas emergencies and so forth. The problem with the amendment is that there was a bracket put in the wrong place, so we have a floor amendment ready to be distributed which puts the bracket in the proper place. We are going to vote on that also, but after we vote on the committee amendment.

SENATOR ROBERGE: Senator Colantuono, would the recording have a beep as it does now when you call the police so that people will know that their call is being recorded?

SENATOR COLANTUONO: The piece in the committee amendment on page 17 for public utilities, specifically requires a warning beep. The police and fire have an exemption under the FCC regulations which does not require them to use it, some do, but they are not required to, so we didn't make them do it in this bill either.

SENATOR COHEN: Senator Colantuono, I wasn't quite clear, just following up on the same question as Senator Roberge. Are the people who are being recorded, are they advised specifically that they are being recorded, I mean do they necessarily know what the beep is or does somebody tell them that their call is being recorded?

SENATOR COLANTUONO: Well, I had the same question in the committee hearing and the same concern. What the police departments do now is, some use the beep and some orally advise the caller that their call is being recorded and others don't, and they don't have to under federal regulations. So because of the fact that it is . . . this only applies to police, fire and emergency lines. The police and fire community are not in favor of requiring that advisement, because first of all, an emergency call is time, is the essence and that is a waste of time and second of all, it might fluster some people and it might create problems. I was the one who had to be convinced not to require that in the committee, and I am convinced that that is not a good idea.

SENATOR PRESSLY: I would like to respond to the question posed by Senator Cohen, mainly because I had the same concern and we actually asked them, what is this beep like? It is the type of thing that you are aware of, it interrupts with a beep at particular intervals. It became apparent that that could actually further distress somebody in distress. So it only applies to emergencies. If someone is calling in an emergency, the assumption is that it will only apply to that. Also, as far as their using it for anything, it is only restricted for the emergency use. So I think that your questions were covered, and the committee shared your concern for confidentiality that you have raised.

SENATOR HOLLINGWORTH: I am looking on the amendment on page seven. If somebody could explain, I have two questions. Why in brackets, is that section taken out where it states that the telephone and telegraph company rules and regulations, why did they have to take that section out?

SENATOR COLANTUONO: That is a mistake, that is what the floor amendment is going to do.

SENATOR HOLLINGWORTH: That is going to put that back in. Okay. My second question perhaps is in the amendment as well. In section three it talks about investigative or law enforcement officers, isn't an investigative anybody, it could be John Doe who is an investigator? I guess that it goes on also, why is wire communications used if it is just telephones? I don't understand what to use for wire communication is included in that as well.

SENATOR COLANTUONO: The first part of the bill cleans up language in the statute
TAPE INAUDIBLE.

SENATOR HOLLINGWORTH: But this is the amendment on page seven.

SENATOR COLANTUONO: Correct. The amendment basically is the same.

SENATOR HOLLINGWORTH: But in section three, it talks about an investigative individual, and I would presume that that could be . . . I could call up Joe Sly and he would be an investigator, and in section two, paragraph H, it talks about an independently owned emergency service, so that doesn't necessarily mean just police and fire, it could be anybody who is involved in emergency service calls or . . . then it goes on to say 'use a wire communication'. What does that have to do with, I mean is that a definition of a telephone or is that something else?

SENATOR COLANTUONO: Well paragraph one, as I say, that language that you are looking at 'investigate' etc, it has always been in 570-A. This is only the section that defines the type of devices that are covered by the law. They are taking out . . . the whole purpose . . . the only reason that this is in here, is because they are taking out number two. That is the only reason that paragraph one is in this bill. It is being taken out of the existing law and it has nothing to do with paragraph two, it is a whole different subject.

Recess.

Senator Delahunty in the Chair.

Committee amendment adopted.

SENATOR COLANTUONO: I would like to offer a floor amendment, #5877L which simply corrects the mistake that was made on page 17 of the committee amendment. It puts the bracket in front of subparagraph two here where it belongs. That is the only change that it makes.

Senator Colantuono offered a floor amendment.

5877L

Floor Amendment to HB 1298

Amend the bill by replacing sections 1 and 2 with the following:

1 Definition of "Electronic, Mechanical, or Other Device" Changed.
Amend RSA 570-A:1, IV (a) to read as follows:

(a) Any telephone or telegraph instrument, equipment, facility or any component thereof:

(1) Furnished to the subscriber or user by a communication carrier in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business or furnished by such subscriber or user for connection to the facilities of such service and used in the ordinary course of its business; in accordance

with applicable provisions of telephone and telegraph company rules and regulations, as approved by the public utilities commission;

[(2) Purchased, rented or used by the subscriber or user; or

(3)] (2) Being used by a communication common carrier in the ordinary course of its business, or by an investigative or law enforcement officer in the ordinary course of his duties **pursuant to this chapter;**

2 New Subparagraphs; Recording Calls; Warning Device. Amend RSA 570-A:2, II by inserting after subparagraph (g) the following new subparagraphs:

(h) Any municipal fire or police department or any independently owned emergency service, and their employees in the course of their employment, when receiving or responding to emergency calls, to intercept, record, disclose or use a wire communication, while engaged in any activity which is a necessary incident to the rendition of service or the protection of life or property.

(i) Any public utility regulated by the public utilities commission, and its employees in the course of employment, when receiving central dispatch calls or calls for emergency service, or when responding to central dispatch calls or calls for emergency service, to intercept, record, disclose or use a wire communication, while engaged in any activity which is a necessary incident to the rendition of service, or the protection of life and property. Any public utility recording calls pursuant to this subparagraph shall provide an automatic tone warning device which automatically produces a distinct signal that is repeated at regular intervals during the conversation. The public utilities commission may adopt rules relative to the recording of emergency calls under RSA 541-A.

AMENDED ANALYSIS

This bill allows a municipal fire or police department, or independent emergency service, and its employees in the course of their employment to record any incoming or outgoing central dispatch and emergency service calls when engaged in any activity which is a necessary rendition of service or is for the protection of life and property.

This bill also allows a public utility and its employees in the course of employment, when receiving central dispatch calls or calls from emergency service, or when responding to central dispatch calls to intercept, record, disclose or use a wire communication while engaged in any activity which is a necessary incident to the rendition of service or the protection of life and property. Any public utility recording a call under this provision shall use a warning device that produces a distance signal at regular intervals.

The bill makes a technical correction in the definition of "electronic, mechanical, or other device."

Floor amendment adopted.

Ordered to third reading.

HB 1342-A, relative to the location and establishment of a state veterans' cemetery and making an appropriation therefor. Executive Departments committee. Ought to Pass. Senator Pressly for the committee.

SENATOR PRESSLY: There is an effort in the state to establish a state Veteran's Cemetery. This bill will allow that effort to find a siting for this facility to continue. It has the support of the committee, and we are recommending ought to pass.

SENATOR MCLANE: The bill has a cost of one dollar and yet in the fiscal note on the back, it says that it is going to cost \$50,000, could you tell me the difference between the two prices, and is that true?

SENATOR PRESSLY: I am not sure. I will request a recess to find out.

SENATOR BLAISDELL: There is one dollar in the bill.

SENATOR MCLANE: One dollar in the bill, but \$50,000 in the fiscal note?

SENATOR PRESSLY: It is my understanding, that at this time, that there is no amount of money to be spent at this time. That it is strictly a search for an appropriate site. And I see that Senator Blaisdell is waving over there.

SENATOR BLAISDELL: The fiscal note has been revised and there is one dollar in the bill, and that is exactly right. Senate Finance doesn't need it by the way.

SENATOR COLANTUONO: I am a co-sponsor of this bill, together with one of my representatives who had a family member die in the past year who was a veteran, and had to go all the way down to Borne, Massachusetts which is the closest Veteran cemetery. I think that that is kind of a shame, so I would support this bill very strongly. Thank you.

Adopted.

Ordered to third reading.

HB 1254, relative to public employee labor relations board hearings. Insurance committee. Ought to Pass. Senator Bass for the committee.

SENATOR BASS: Mr. President, this bill does two things, it allows the Public Employee Labor Relations Board to delegate to a hearings officer findings of fact and other duties and to report to the board within certain time limits. The effort being here, to make the board operate more efficiently. The second part of the bill, authorizes the hiring of a hearings officer in order to speed up the process. Apparently, the Employee Labor Relations Board has gotten way behind. It is my understanding in hard economic times that there has been a lot more complaints and it is important to both the employer and the employee that these complaints be handled in an expeditious fashion. With respect to the fiscal note, the fiscal note indicates that this bill will cost an additional \$50,000. It is my understanding that the bill, if it passes, will be sent to Senate Finance, and it is my hope that the Senate Finance committee will be attentive to the fact that perhaps if at any time in the future, the Board catches up on its backlog, that this employee will no longer be needed. We urge your adoption of the committee report of ought to pass.

Adopted.

Referred to Finance (Rule #24).

HB 1466-FN, modifying the advisory council on unemployment compensation. Insurance committee. Ought to Pass with Amendment. Senator Colantuono for the committee.

5740L

Amendment to HB 1466-FN

Amend the title of the bill by replacing it with the following:

AN ACT

requiring the advisory council on unemployment compensation
to give public notice of its meetings and relative to
group II retirement system members' purchase
of service for out-of-state service-creditable.

Amend the bill by replacing all after the enacting clause with the following:

1 Advisory Council on Unemployment Compensation; Public Notice Required. Amend RSA 282-A:128 to read as follows:

282-A:128 Advisory Council. There is hereby created within the unemployment compensation bureau an advisory council on unemployment compensation, hereinafter called the advisory council. The advisory council shall consist of 7 members to be appointed upon recommendations of the commissioner by the governor with the consent and advice of the governor's council. Three of the appointees of

this advisory council shall be persons who, because of their vocations, employment or affiliations, shall be classed as representing the point of view of employers; 3 shall be persons who, because of their vocations, employment or affiliations, shall be classed as representing the point of view of employees; the remaining appointee, who shall be designated as chairman, shall be a person whose training and experience qualify him to deal with the problems of unemployment compensation. Such advisory council shall aid the commissioner in formulating policies and discussing problems related to the administration of this chapter and in assuring impartiality and freedom from political influence in the solution of such problems. **The advisory council shall give public notice at least 20 days in advance of any meeting of the advisory council.**

2 Purchase of Out-of-State Service by Group II Members. Amend RSA 100-A:4-c, I(e) to read as follows:

(e) The amount of creditable service purchased shall be either the full length of service rendered in the other system or a [pro-rata portion of such service purchasable with the maximum amount which the member is permitted to withdraw from the other system] **portion of such service as the member may elect to purchase;** and

3 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill requires the advisory council on unemployment compensation to give public notice of its meetings.

This bill also allows group II retirement system members to purchase either the full length of service rendered in an out-of-state retirement system, or a portion of such service as the member may elect to purchase.

Senator Colantuono moved to have HB 1466-FN modifying the advisory council on unemployment compensation laid on the table.

Adopted.

LAID ON THE TABLE

HB 1466-FN modifying the advisory council on unemployment compensation.

HB 1466 is laid on the table.

HB 343-FN, to define total expenditures made during a state primary election. Public Affairs committee. Inexpedient to Legislate. Senator W. King for the committee.

SENATOR W. KING: The Senate Public Affairs committee felt that this would further complicate what is already a complicated reporting law and we unanimously agreed inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

HB 740-FN, relative to increasing political expenditure limitations for certain candidates and relative to the penalty for exceeding total expenditure limitations. Public Affairs committee. Ought to Pass with Amendment. Senator Bass for the committee.

5824L

Amendment to HB 740-FN

Amend the title of the bill by replacing it with the following:

AN ACT

increasing political expenditure limitations for certain candidates, relative to the penalty for exceeding total expenditure limitations, establishing a campaign spending administrative account, and relative to reporting requirements for candidates.

Amend the bill by replacing all after the enacting clause with the following:

1 Political Expenditure Limitations for Governor, United States Senator, Representative to Congress, and Executive Council Candidates. Amend RSA 664:5-b, I-V to read as follows:

I. For governor and United States senator:

- (a) [\$400,000] **\$500,000** in a state primary election.
- (b) [\$400,000] **\$500,000** in a state general election.

II. For representative to Congress:

- (a) [\$200,000] **\$250,000** in a state primary election.
- (b) [\$200,000] **\$250,000** in a state general election.

III. For executive council:

- (a) [\$35,000] **\$50,000** in a state primary election.
- (b) [\$35,000] **\$50,000** in a state general election.

IV. For state senate:

- (a) [\$15,000] **\$20,000** in a state primary election.
- (b) [\$15,000] **\$20,000** in a state general election.

V. For representative to the general court and all county offices, based upon the latest figures filed with the secretary of state:

- (a) [\$.25] **\$.50** per registered voter in the district or the county in a state primary election.
- (b) [\$.25] **\$.50** per registered voter in the district or the county in a state general election.

2 Increasing Fines for Exceeding Total Political Expenditure Limitations. Amend RSA 664:21, I(a)-(e) to read as follows:

- (a) Candidates for United States Senate and governor: under \$ 1,000 - one percent

\$ 1,000 - \$ 5,000 - 10 percent

\$ 5,000 - \$10,000 - 25 percent

\$10,000 - \$50,000 - 50 percent

over [\$10,000] \$50,000 - [50] 100 percent

(b) Candidates for representative to Congress:

under \$ 1,000 - one percent

\$1,000 - \$ 5,000 - 10 percent

\$5,000 - \$10,000 - 25 percent

\$10,000 - \$25,000 - 50 percent

over [\$10,000] \$25,000 - [50] 100 percent

(c) Candidates for executive council and county officers:

under \$ 500 - one percent

\$ 500 - \$1,000 - 10 percent

\$1,000 - \$5,000 - 25 percent

\$5,000 - \$10,000 - 50 percent

over [\$5,000] \$10,000 - [50] 100 percent

(d) Candidates for state senate:

under \$ 100 - one percent

\$100 - \$ 500 - [5] 10 percent

\$ 500 - \$1,000 - [10] 25 percent

\$1,000 - \$5,000 - 50 percent

over [\$1,000] \$5,000 - [50] 100 percent

(e) Candidates for the general court:

under \$ 100 - one percent

\$100 - \$ 250 - [one] 10 percent

\$250 - \$ 500 - 25 percent

\$500 - \$1,000 - 50 percent

over [\$ 250] \$1,000 - [one] 100 percent

3 New Section; Campaign Spending Administrative Account. Amend RSA 664 by inserting after section 18 the following new section:

664:18-a Campaign Spending Administrative Account. There is established in the state treasury a separate nonlapsing account to be known as the campaign spending administrative account. The account shall be used by the secretary of state for the administration of RSA 660 and RSA 664. Notwithstanding any other provision of law, all fees, administrative assessments, and fines collected by the secretary of state under RSA 655, 660 and 664 shall be credited to this account.

4 New Section; Facsimile Transmissions. Amend RSA 664 by inserting after section 9 the following new section:

664:9-a Itemized Statements Filed by Facsimile Transmission. The sworn itemized statements required to be filed by a political committee or a candidate or on his behalf as required by RSA 664:6 and 664:7 may be filed by means of a facsimile transmission; provided,

however, that a statement which is transmitted electronically or telephonically by a facsimile device shall also be filed by a political committee or a candidate or on his behalf not later than the last day of each filing period under RSA 664:6 and 664:7 if a facsimile transmission is used.

5 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill amends the law on political expenditure limitations by:

(1) Increasing the amount which candidates for governor, United States Senator, representative to Congress, executive council, state senate, representative to the general court, and county office may spend in state primary and general elections.

(2) Increasing the fines assessed against all candidates for exceeding their total political expenditure limitations.

The bill places certain fees, fines, and administrative assessments collected by the secretary of state in a special account to be used for the purpose of administering and enforcing RSA 660 and RSA 664.

The bill also allows candidates and political committees to use facsimile transmissions to file their expenditure reports with the secretary of state.

SENATOR BASS: Mr. President, this bill incorporates many of the recommendations that were not only made last year, but also reaffirmed by the Campaign Spending Advisory committee with respect to raising limits in order to bring them into line with what we consider to be reasonable costs for campaigns. The second part establishes an account where fees and penalties will be placed. The third part allows the candidates to fax reports to the Secretary of State's Office as long as they are followed by hard copies. The committee urges your adoption of the committee report of ought to pass as amended.

SENATOR DISNARD: Senator, doesn't this fly against the wishes of the electorate, we are going to increase the cost that candidates can spend, isn't this against the national and the state trend?

SENATOR BASS: Well, Senator Disnard, the Campaign Spending Advisory committee spent a lot of time discussing this thing. It is my understanding, that they reviewed a lot of different data, including that information which is being considered by the U.S. Congress, as well as what individuals who are concerned with said in New Hampshire; and the result was a recommendation that in order to make these limits in line with what is considered to be a reasonable cost for a campaign, this is where these limits should be. Now, Senator

Disnard, I happen to feel, personally, that they should be lower, but I am one person, and I think that we should adopt the recommendation from this committee.

SENATOR DISNARD: Senator Bass, would you believe that I, and I assume that many of the constituents in this state, believe that a 33 percent increase in the amount that a person can spend, to hope to be in this body is unrealistic?

SENATOR BASS: Well, Senator Disnard, I would respond by saying that the limits were established three years ago and this was the first time that this had been done, not only in New Hampshire, but in the whole country. I don't think that it is fair to compare these things on the basis of percentages, because we don't have any baseline to work with, and so as a result, we felt that establishing these higher rates would be more reasonable.

SENATOR DISNARD: Would you believe, Senator, that what we are saying is that the incumbent is guaranteed an election or reelection, and that if someone else desires to run for the position is at a disadvantage?

SENATOR BASS: Well, that is an interesting question, Senator Disnard, because I have heard just as many people say exactly the opposite. I guess the only conclusion that I can draw is that it probably doesn't help either.

SENATOR COLANTUONO: Senator Bass, I believe that one of the recommendations that the Campaign Advisory committee that I serve on made, was that any fine money that would get paid, could not be campaign money. It has to come out of the personal money of the candidate or some other funds. Is that in this bill somewhere or was any consideration given to that?

SENATOR BASS: No. The bill was introduced in the House and I wasn't even aware of that issue having been voted out by the committee. I don't have the minutes of the committee hearing, and I wasn't aware that they voted to do that. I am assuming that Representative Holden who is Chairman of that committee, introduced what the committee had agreed to do.

Recess.

Out of recess.

SENATOR COLANTUONO: I just want to speak briefly and point out a very significant part of the bill that Senator Bass didn't mention on his report, which is that we are also increasing the fines for people who overspend. Before, you could overspend by an unlimited amount and you only got a very small percentage that you would

have to pay as a fine. Now, for example, a candidate for the state Senate, if you overspend by between \$1,000 and \$5,000, your fine is 50 percent of what you overspend and if you overspend by \$5,000 or more, you have to pay 100 percent of what you overspend. I think that that is a very important change, and necessary.

Committee amendment adopted.

Ordered to third reading.

HB 1124-L, allowing a town to apply certain rental welfare assistance payments to certain amounts owed to a town for the assisted person's landlord's delinquent water, sewer, electricity or tax payments and relative to interest rates on security deposits. Public Affairs committee. Ought to Pass. Senator W. King for the committee.

SENATOR W. KING: HB 1124 allows a town to access a portion of welfare payments that are made to individuals living in a landlords house who is behind on their property taxes, who is delinquent on their property taxes, towards those property taxes. In other words, the landlord X is delinquent on their property taxes but has an individual who is receiving some kind of a support payment from the town. The town would be able to keep some of that payment that would go toward the rent for the delinquent property taxes. The committee urges your support.

Adopted.

Ordered to third reading.

HB 1287-L, enabling certain municipalities to issue tax lien redemption notes and relative to the transfer of tax liens. Public Affairs committee. Ought to Pass with Amendment. Senator Bass for the committee.

5837L

Amendment to HB 1287-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT

enabling certain municipalities to issue tax lien redemption notes,
relative to the transfer of tax liens and allowing the local
governing body to extend the time period allowed
for redemption before a municipality may
sell a property for nonpayment
of property taxes.

Amend the bill by replacing all after section 4 with the following:

5 Time for Redemption Extended. Amend RSA 80:38, I to read as follows:

I. The collector, after 2 years from the sale, shall execute to the purchaser, his heirs or assigns, a deed of the land so sold and not redeemed. **The local governing body of any town or city may vote to extend the time for redemption in the town or city from 2 to 3 years.** The deed shall be substantially as follows:

Know all men by these presents, That I, _____, collector of taxes for the Town of _____, in the County of _____, and State of New Hampshire, for the year 19 _____, by the authority in me vested by the laws of the state, and in consideration of _____ to me paid by _____, do hereby sell and convey to him the said _____, his heirs and assigns (here describe the land sold), to have and to hold the said premises with appurtenances to him, _____, his heirs and assigns forever. And I do hereby covenant with said _____, that, in making this conveyance I have in all things complied with the law, and that I have a good right, so far as the right may depend upon the regularity of my own proceedings, to sell and convey the same in manner aforesaid. In witness whereof I have hereunto set my hand and seal the _____ day of _____, _____

Signed, sealed and delivered in the presence of _____

6 Time for Redemption Extended. Amend RSA 80:42, I to read as follows:

I. No transfer of any tax lien upon real estate acquired by a town or city at a tax collector's sale for nonpayment of taxes thereon shall be made to any person by the municipality during the 2-year **period or, if the local governing body has voted to extend the time for redemption from 2 to 3 years as authorized by RSA 80:38, I, the 3-year** period allowed for redemption, nor shall title to any real estate taken by a town or city in default of redemption from a tax sale be conveyed to any person unless the town, by majority vote at the annual meeting, or city council by vote, shall authorize the selectmen or the mayor to transfer such lien or to convey such property by deed.

7 Time for Redemption Extended. Amend RSA 80:76, I to read as follows:

I. The collector, after **2 years or, if the local governing body has voted to extend the time for redemption from 2 to 3 years as authorized by RSA 80:38, I, 3 years** from the execution of the real estate tax lien, shall execute to the lienholder a deed of the land subject to the real estate tax lien and not redeemed. The deed shall be substantially as follows:

Know all men by these presents, That I, _____, collector of taxes for the Town of _____, in the County of _____ and State of New Hampshire, for the year 19____, by the authority in me vested by the laws of the state, and in consideration of _____ to me paid by _____, do hereby sell and convey to _____, the said _____, (here describe the land sold), to have and to hold the said premises with the appurtenances to _____, forever. And I do hereby covenant with said _____, that in making this conveyance I have in all things complied with the law, and that I have a good right, so far as the right may depend upon the regularity of my own proceedings, to sell and convey the same in manner aforesaid. In witness whereof I have hereunto set my hand and seal the _____ day of _____, _____

Signed, sealed and delivered in the presence of _____

8 Time for Redemption Extended. Amend RSA 80:80, I to read as follows:

I. No transfer of any tax lien upon real estate acquired by a town or city as a result of the execution of the real estate tax lien by the tax collector for nonpayment of taxes thereon shall be made to any person by the municipality during the 2-year period or, **if the local governing body has voted to extend the time for redemption from 2 to 3 years as authorized by RSA 80:38, I, the 3-year** period allowed for redemption, nor shall title to any real estate taken by a town or city in default of redemption be conveyed to any person, unless the town, by majority vote at the annual meeting, or city council by vote, shall authorize the selectmen or the mayor to transfer such lien or to convey such property by deed.

9 Time for Redemption Extended. Amend RSA 80:38, I to read as follows:

I. The collector, after 2 years from the sale, shall execute to the purchaser, his heirs or assigns, a deed of the land so sold and not redeemed. [The local governing body of any town or city may vote to extend the time for redemption in the town or city from 2 to 3 years.] The deed shall be substantially as follows:

Know all men by these presents, That I, _____, collector of taxes for the Town of _____, in the County of _____, and State of New Hampshire, for the year 19____, by the authority in me vested by the laws of the state, and in consideration of _____ to me paid by _____, do hereby sell and convey to him the said _____, his heirs and assigns (here describe the land sold), to have and to hold the said premises with appurtenances to _____

him, _____, his heirs and assigns forever. And I do hereby covenant with said _____, that, in making this conveyance I have in all things complied with the law, and that I have a good right, so far as the right may depend upon the regularity of my own proceedings, to sell and convey the same in manner aforesaid. In witness whereof I have hereunto set my hand and seal the _____ day of _____, _____

Signed, sealed and delivered in the presence of _____

10 Time for Redemption Extended. Amend RSA 80:42, I to read as follows:

I. No transfer of any tax lien upon real estate acquired by a town or city at a tax collector's sale for nonpayment of taxes thereon shall be made to any person by the municipality during the 2-year [period or, if the local governing body has voted to extend the time for redemption from 2 to 3 years as authorized by RSA 80:38, I, the 3-year] period allowed for redemption, nor shall title to any real estate taken by a town or city in default of redemption from a tax sale be conveyed to any person unless the town, by majority vote at the annual meeting, or city council by vote, shall authorize the selectmen or the mayor to transfer such lien or to convey such property by deed.

11 Time for Redemption Extended. Amend RSA 80:76, I to read as follows:

I. The collector, after 2 [years or, if the local governing body has voted to extend the time for redemption from 2 to 3 years as authorized by RSA 80:38, I, 3] years from the execution of the real estate tax lien, shall execute to the lienholder a deed of the land subject to the real estate tax lien and not redeemed. The deed shall be substantially as follows:

Know all men by these presents, That I, _____, collector of taxes for the Town of _____, in the County of _____ and State of New Hampshire, for the year 19____, by the authority in me vested by the laws of the state, and in consideration of _____ to me paid by _____, do hereby sell and convey to _____, the said _____, (here describe the land sold), to have and to hold the said premises with the appurtenances to _____, forever. And I do hereby covenant with said _____, that in making this conveyance I have in all things complied with the law, and that I have a good right, so far as the right may depend upon the regularity of my own proceedings, to sell and convey the same in manner aforesaid. In witness whereof I have hereunto set my hand and seal the _____ day of _____, _____

Signed, sealed and delivered in the presence of

12 Time for Redemption Extended. Amend RSA 80:80, I to read as follows:

I. No transfer of any tax lien upon real estate acquired by a town or city as a result of the execution of the real estate tax lien by the tax collector for nonpayment of taxes thereon shall be made to any person by the municipality during the 2-year [period or, if the local governing body has voted to extend the time for redemption from 2 to 3 years as authorized by RSA 80:38, I, the 3-year] period allowed for redemption, nor shall title to any real estate taken by a town or city in default of redemption be conveyed to any person, unless the town, by majority vote at the annual meeting, or city council by vote, shall authorize the selectmen or the mayor to transfer such lien or to convey such property by deed.

13 Effective Date.

I. Sections 5-8 of this act shall take effect January 1, 1993.

II. Sections 9-12 of this act shall take effect January 1, 1996.

III. The remainder of this act shall take effect upon its passage.

AMENDED ANALYSIS

This bill allows cities and towns operating under the real estate tax lien procedure to issue tax lien redemption notes. The notes would mature within 3 years from the date of issuance and would be secured by tax lien receivables.

The bill specifies that if the selectmen or mayor are authorized to transfer tax liens, the transfer must be by means of a public auction or sale, and details how the auction or sale is to be held.

This bill also allows any local governing body to extend from 2 to 3 years the time period allowed for redemption before a municipality may sell a property for nonpayment of property taxes for a temporary 3-year period.

SENATOR BASS: Mr. President, this bill which is one of the Municipal Association policy bills, enables municipalities to borrow money against tax liens, thereby increasing the towns cash flow. It also modifies the process for the transfer of tax liens; and the amendment which is printed in the calendar on page 14, is enabling legislation which gives the governing body in the town the authority to extend from two years to three years for a specific period of time, the taking of title for unpaid taxes. The committee urges your adoption of the committee report of ought to pass as amended.

Committee amendment adopted.

Ordered to third reading.

HB 1329-FN-L, specifying the time for the municipal treasurer to make payments of annual budget funds to the village district. Public Affairs committee. Ought to Pass with Amendment. Senator W. King for the committee.

5815L

Amendment to HB 1329-FN-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT

specifying the time for the town treasurer to make payments of annual budget funds to the village district, and relative to the Sugar Hill annual town meeting.

Amend the bill by replacing all after the enacting clause with the following:

1 Distribution of Taxes Collected in Village Districts. Amend RSA 52:16, II to read as follows:

II. In the case of districts with annual budgets of less than \$200,000, the town treasurer shall distribute the amount of taxes collected and held in trust by the town under paragraph I to the district treasurer no later than December 31 of each calendar year. [In the case of districts with annual budgets of \$200,000 or more, the town treasurer shall distribute the amount of taxes collected and held in trust by the town under paragraph I by distributing to the district treasurer all taxes collected in any given calendar month by the end of the next following month. The town treasurer, furthermore, shall turn over to the district treasurer all interest earned on district tax revenues held in trust by the town and all interest collected by the town on the account of any delinquent district taxpayers' district taxes in the same manner as the tax revenues are distributed.]

2 Sugar Hill Annual Town Meeting. All actions concerning the posting of the warrant, and all actions, votes and proceedings of the Sugar Hill annual town meeting held on March 10, 1992, are hereby legalized, ratified and confirmed.

3 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill requires the town treasurer, in the case of village districts with annual budgets of less than \$200,000, to distribute the amount of taxes collected and held in trust by the town to the district treasurer no later than December 31 of each calendar year.

The bill also legalizes all actions concerning the posting of the warrant, and all actions, votes and proceedings of the 1992 Sugar Hill annual town meeting.

Senator W. King moved to have HB 1329-FN-L specifying the time for the municipal treasurer to make payments of annual budget funds to the village district laid on the table.

Adopted.

LAID ON THE TABLE

HB 1329-FN-L specifying the time for the municipal treasurer to make payments of annual budget funds to the village district.

HB 1329-FN-L is laid on the table.

HB 1430, relative to the disclosure of certain information and refunds relating to musical performances. Public Affairs committee. Ought to Pass with Amendment. Senator Bass for the committee.

5842L

Amendment to HB 1430

Amend the title of the bill by replacing it with the following:

AN ACT

relative to the disclosure of certain information
relating to musical performances.

Amend the bill by replacing section 1 with the following:

1 New Chapter; Disclosure of Information Relating to Musical Performances. Amend RSA by inserting after chapter 357-E the following new chapter:

CHAPTER 357-F

DISCLOSURE OF INFORMATION RELATING TO MUSICAL PERFORMANCES

357-F:1 Definitions. In this chapter:

I. "Musical performance" means a musical performance, show, concert or other cultural event which includes vocal performances.

II. "Person" means any corporation, company, association, firm, partnership, and joint stock company as well as any individual.

III. "Place of musical entertainment" means any privately or publicly owned and operated entertainment facility within the state, such as a theater, stadium, arena or other place where musical performances are held and for which an entry fee is charged.

IV. "Promoter" means any person who produces, arranges, or stages a musical performance.

V. "Ticket" means any piece of paper which indicates that the bearer has paid for entry or other evidence which permits entry to a place of musical entertainment.

VI. "Ticket agent" means any person who is involved in the business of selling or reselling tickets or admission to a musical performance who charges a premium in excess of the price, plus taxes, printed on the ticket.

357-F:2 Disclosure Required. When the promoter knows, prior to the sale of any tickets for a musical performance which includes, either in whole or in part, vocal performances, the promoter shall disclose whether all the lead vocals consist of played recordings rather than the actual singing of those vocalists during that performance. The disclosure required under this section shall consist of the following:

I. Notice, in writing, to the place of musical entertainment where the musical performance is to be held; and

II. Notice, in writing, to every ticket agent receiving tickets for the musical performance in which all the lead vocals consist of played recordings rather than the actual singing of those vocalists.

357-F:3 Duties of Place of Musical Entertainment.

I. A place of musical entertainment shall, upon receipt of a promoter's disclosure that all the lead vocals consist of played recordings rather than the actual singing of those vocalists, print on the face of each ticket, in a prominent and conspicuous manner, substantially the following: "(Insert name of lead vocalist or musical group) VOCALS PRE-RECORDED."

II. In addition to the requirements under paragraph I, the place of musical entertainment shall, in each advertisement for that musical performance provide the following:

(a) In each printed advertisement in a prominent and conspicuous manner, a disclosure that either all the lead vocals consist of played recordings rather than the actual singing of the lead vocalists. The disclosure shall consist of substantially the following: "(Insert name of lead vocalist or musical group) VOCALS ARE PRE-RECORDED."

(b) In each radio or telecommunication advertisement in a clear and prominent manner, a statement consisting of substantially the following statement: "THE LEAD VOCALS IN THIS MUSICAL PERFORMANCE ARE PRE-RECORDED AND WILL NOT ACTUALLY BE SUNG BY (Insert name of lead vocalist or musical group) DURING THIS SHOW."

357-F:4 Duties of Ticket Agent. Every ticket agent receiving tickets for sale or resale to a musical performance in which all the lead vocals consist of played recordings rather than the actual singing of the lead vocalists, shall:

I. Display, in a location immediately adjacent to the booth, counter, or window where the tickets are sold, a prominent and conspicuous notice consisting of substantially the following: "THE LEAD VOCALS IN (Insert name of musical performance) ARE PRE-RECORDED AND WILL NOT ACTUALLY BE SUNG BY (insert name of lead vocalist or musical group) DURING THIS SHOW."

II. State, prior to the completion of any telephone sales transaction involving tickets to a musical performance in which all the lead vocals consists of played recordings rather than the actual singing of the lead vocalists, substantially the following: "THE LEAD VOCALS IN (Insert name of musical performance) ARE PRE-RECORDED AND WILL NOT ACTUALLY BE SUNG BY (Insert name of lead vocalist or musical group) DURING THIS SHOW."

357-F:5 Penalties. Notwithstanding title LXII:

I. Any ticket agent who violates the provisions of RSA 357-F:4 shall be guilty of a misdemeanor.

II. Any promoter or place of musical entertainment violating the provisions of this chapter shall be guilty of a misdemeanor.

357-F:6 Enforcement. The attorney general shall enforce the provisions of this chapter and shall adopt such rules, pursuant to RSA 541-A, as he deems reasonable and necessary in order to properly carry out his duties under this chapter.

AMENDED ANALYSIS

This bill imposes duties on promoters, places of musical entertainment and ticket agents to disclose whether all the lead vocals of a musical performance featuring vocals are pre-recorded. The bill requires the attorney general to enforce the law and grants him rule-making authority for that purpose.

SENATOR BASS: Mr. President, this bill requires that promoters and agents who are going to have concerts where certain parts of the concert will maybe be prerecorded, to state that information on the promotional material in the tickets. The committee eliminated a section requiring that refunds be given within a specific period of time as being a different and far more expansive question. The committee urges your adoption of the committee report of ought to pass as amended.

Committee amendment adopted.

Ordered to third reading.

HB 1182-FN, authorizing the division of human services to establish a system to recoup child support payments made in error, clarifying

confidentiality of certain information and allowing the division to close certain cases. Public Institutions, Health and Human Services committee. Ought to Pass with Amendment. Senator McLane for the committee.

5758L

Amendment to HB 1182-FN

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; Rulemaking Authorized; System of Recouping Child Support Payments Made in Error. Amend RSA 161:4-a by inserting after paragraph VIII the following new paragraph:

VIII-a. The establishment, maintenance, and direction of a reasonable and fair system of recouping payments made in error from child support collected pursuant to RSA 161:2, XVI, or other means as allowed by law.

2 Information Confidentiality; Reference Clarified. Amend RSA 161-B:7, III to read as follows:

III. Any records established or information collected pursuant to the provisions of this chapter shall be made available only to the director and the attorney general and their authorized designees, attorneys **employed by the office of child support, attorneys responsible for the administration of RSA 546, the client or the client's authorized representative**, and courts or agencies in other states engaged in the enforcement of support of minor children as authorized by **federal law or the rules [and regulations] of the division[, and]**. Such records and information shall be available **and used** only for purposes directly connected with **establishment, enforcement, or modification of child support and the administration of this chapter. The records and information made available to the client or the client's authorized representative shall not include information provided to the division that is prohibited from release by federal law, state statute, common law, or by contract or agreement between the division and another entity if such contract or agreement prohibits release of such information.**

3 Information Confidentiality; Reference Clarified. RSA 161-C:3-a, IV is repealed and reenacted to read as follows:

IV. Any records established or information collected pursuant to the provisions of this chapter shall be made available only to the director and the attorney general and their authorized designees, attorneys employed by the office of child support, attorneys responsible for the administration of RSA 546, the client or the client's authorized representative and courts or agencies in other states engaged in the enforcement of support of minor children as authorized

by the rules of the division. Such records and information shall be available and used only for purposes directly connected with establishment, enforcement or modification of child support and the administration of this chapter. The records and information made available to the client or the client's authorized representative shall not include information provided to the division that is prohibited from release by federal law, state statute, common law, or by contract or agreement between the division and another entity if such contract or agreement prohibits release of such information.

4 Authorization Granted to Close Certain Cases. Amend RSA 161-B:3, II to read as follows:

II. The director may accept applications for support enforcement services on behalf of persons who are not recipients of public assistance and may take action as he deems appropriate to establish or enforce support obligations against persons owing a duty to pay support. Action may be taken under this chapter, the abandonment of non support statutes, or other appropriate statutes of this state, including but not limited to remedies established in RSA 161-C, to establish and enforce said support obligations, **provided, however, that if such child support obligation has been terminated by court order or by operation of law the director may close the case in accordance with the criteria set out in federal statutes and regulations.**

5 Effective Date. This act shall take effect 60 days after its passage.

Senator McLane moved to have HB 1182-FN authorizing the division of human services to establish a system to recoup child support payments made in error, clarifying confidentiality of certain information and allowing the division to close certain cases laid on the table.

Adopted.

LAI D ON THE TABLE

HB 1182-FN authorizing the division of human services to establish a system to recoup child support payments made in error, clarifying confidentiality of certain information and allowing the division to close certain cases.

HB 1182-FN is laid on the table.

HB 1357, establishing a committee to study the concept of in-home care as an alternative to institutionalized care. Public Institutions, Health and Human Services committee. Ought to Pass with Amendment. Senator Bass for the committee.

5814L

Amendment to HB 1357

Amend the title of the bill by replacing it with the following:

AN ACT

establishing a committee to study the concept of in-home care
as an alternative to institutionalized care and allowing
residential care facilities to be participating
institutions under the law relative to the
New Hampshire higher educational
and health facilities authority.

Amend paragraph II of section 1 of the bill by replacing it with the following:

II. Two members of the senate, appointed by the president of the senate.

Amend paragraphs XI through XV of section 1 of the bill by replacing them with the following:

XI. A representative of the New Hampshire Nurses' Association, appointed by such association.

XII. A representative, who shall be a county director of nursing, of the New Hampshire Directors of Nursing Association - Long Term Care, appointed by such association.

XIII. A representative of the New Hampshire Hospital Association, appointed by such association.

XIV. A representative of the New Hampshire Medical Association, appointed by such association.

XV. A representative of the university system of New Hampshire's school of health studies, appointed by the dean of the university.

XVI. A representative of the Granite State Independent Living Foundation, appointed by such foundation.

Amend the bill by replacing all after section 4 with the following:

5 Residential Care Facilities Added. Amend RSA 195-D:3, XII to read as follows:

XII. "Nursing home," notwithstanding any other provision of law to the contrary, means any nonprofit or charitable institution or organization, public or private, which is exempt from federal taxation pursuant to section 501 of the United States Internal Revenue Code of 1986 as amended, and which is engaged in the operation of, or formed for the purpose of operating, a facility in which nursing care, sheltered care, intermediate care, life-care or continuing care, and medical services are prescribed by or performed under the general direction of persons licensed to practice medicine or surgery in

New Hampshire, and in whole or in part is, or shall be upon completion, (a) **licensed as a residential care facility under RSA 151:2, I(e); (b) a licensed nursing facility, public or private, which participates in the state medicaid program;** or (c) can be upon receipt of a certificate of need under RSA 151-C licensed as a nursing home under the laws of New Hampshire.

6 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill establishes a committee to study the feasibility of developing a pilot program to provide in-home care to persons who would otherwise be institutionalized.

The committee is to submit its report together with its recommendations for legislation on or before November 1, 1992.

The bill also includes licensed residential care facilities and licensed nursing facilities, public or private, which participate in the state medicaid program within the definition of "nursing home" in RSA 195-D. A participating institution under RSA 195-D, which may include a nursing home, may qualify for a loan made by the New Hampshire Higher Educational and Health Facilities Authority.

SENATOR BASS: Mr. President, this bill establishes a committee to study the concept of in-home care as an alternative to institutional care. The amendment allows such facilities to qualify as nonprofit entities for financing under the Higher Education and Health Facilities Authority. It is supported by the Health Care and Facilities Authority, and the committee urges your support of the committee report of ought to pass as amended.

Committee amendment adopted.

Ordered to third reading.

HB 1050-FN, limiting outdoor advertising devices and increasing permit fees for maintaining outdoor advertising devices. Transportation committee. Inexpedient to Legislate. Senator Cohen for the committee.

SENATOR COHEN: This bill would prohibit the erection of outdoor advertising devices within turnpike adjacent areas unless they are on premise signs directional or informational, official or political or farm stands. It also would increase the permit fees. The effect of this bill would be to discriminate against businesses which don't happen to be located right on a highway. If this bill were to pass it would create an unfair trade situation and would hurt tourism. The committee, after a great deal of discussion, recommended a vote of inex-

pedient to legislate. I understand an amendment may be coming in that may create a study committee, but for now, as of the bill, as to the way that it is, we recommend a vote of inexpedient to legislate.

SENATOR PRESSLY: Mr. President, I would like to move to substitute ought to pass for the committee report of inexpedient to legislate and I would like to speak to my motion.

SUBSTITUTE MOTION

Senator Pressly moved to substitute ought to pass for inexpedient to legislate.

Senator Russman moved to have HB 1050 limiting outdoor advertising devices and increasing permit fees for maintaining outdoor advertising devices laid on the table.

Adopted.

LAID ON THE TABLE

HB 1050 limiting outdoor advertising devices and increasing permit fees for maintaining outdoor advertising devices.

HB 1050 is laid on the table.

HB 1185-FN, authorizing the department of transportation to conduct surveys over certain roads, prescribe special rules for student driver training, exempt certain transportation operations from certain motor carrier statutes and relative to laying out class I and II highways. Transportation committee. Ought to Pass with Amendment. Senator Oleson for the committee.

5718L

Amendment to HB 1185-FN

Amend RSA 228:73 as inserted by section 2 of the bill by replacing it with the following:

228:73 Statutes Not Applicable. Any regular route passenger transportation operation conducted directly by the department or by contract with the department shall not be subject to [procurement of any regular agent's operating authority from the department;] **the requirements of RSA 376**, provided, however, that such operations shall be subject to all safety and insurance standards as set forth by the department for similar operations.

SENATOR OLESON: This is maybe one of the most important bills that came in front of the Transportation committee this year. It had many fractions and parts to it. But nevertheless, one thing that we should bear in mind is that at the present time, at the federal front,

especially with our Presidential TAPE INAUDIBLE appropriations to make and increase and build roads to help our economy. There has been certain rules and regulations changed with the state to take advantage of these changes, should have the flexibility at all times to take advantage of. I have many reasons if you would like me to explain why the bill should pass. I will explain that if so desired. At the same time, Mr. President, my experience in the House has been that I am apt to look at a bill and see who the sponsors are and usually these are the people, outside of God, that I put my faith in, and I usually am right. Because when you have Merle Schotanus and Paul LaMott and Beaton Marsh cosponsoring a bill, I don't want to downplay anybody, but you do have the best in many aspects in this area. One thing as we all know, federal funds are drying up, in certain areas. I realize that we can't continue to approve money that we don't have, but nevertheless, some of these federal funds are drying up and I think that it is to our advantage and to the welfare of this state, and maybe even the states and the counties, and even the towns pick these deletions out. One part of the bill is that a nonprofit organization have a permanent license such as TAPE INAUDIBLE which means 'meals on wheels'. I urge each and every one of us to pass the amendment and then later on, the bill as amended. I think that it is in the interest of each and every one of us in the state, and I think that it would be to the credit of the Senate to pass it as amended. Thank you very much.

Committee amendment adopted.

Ordered to third reading.

Recess.

Senator Dupont in the Chair.

HB 1455-FN, relative to motor vehicle laws, including suspension of wholesale motor vehicle dealer's registration, hanging disability placards, and other technical changes. Transportation committee. Ought to Pass with Amendment. Senator Heath for the committee.

5720L

Amendment to HB 1455-FN

Amend the bill by inserting after section 12 the following and renumbering the original sections 13 and 14 to read as 19 and 20, respectively:

13 New Paragraph; Mandatory License Suspension or Revocation; National Driver Register Search. Amend RSA 261:180 by inserting after paragraph I the following new paragraph:

I-a. The director of motor vehicles shall check the record of any person registering a vehicle in New Hampshire through the National Driver Register to see if that person is under suspension or revocation for any of the reasons listed in paragraph III of this section.

14 Diesel Fuel Exemption. Amend RSA 260:52, V to read as follows:

V. Every user of special fuel shall procure a user's license for each motor vehicle propelled by such fuel, which will expire on January 1 of each year, on such forms as the department may prescribe at a fee of \$5. It shall be unlawful for any owner or driver to drive or cause to be driven any motor vehicle propelled by such fuel over the ways of this state unless he is the holder of a valid user's license or has been granted authority to drive on a temporary basis as provided in RSA 260:52, VI. Notwithstanding this provision, all pleasure-type vehicles **and trucks with a gross registered weight of 10,000 pounds or less**, registered exclusively in another state shall be exempted from the requirements of a user's license. For the purposes of this section, pleasure-type vehicles shall be limited to all vehicles with a registered gross weight of less than [7,000] **10,000** pounds, recreational vehicles and buses which have been structurally altered for use as campers which are not common or contract carriers of passengers and do not have a seating capacity of more than 19 passengers.

15 New Paragraph; Unpaid Fines Reported to Credit Bureau. Amend RSA 263:56-a by inserting after paragraph VI the following new paragraph:

VII. Whenever any defendant defaults on any arraignment or other scheduled court appearance and has failed to pay a fine or fines or any other penalty which totals more than \$100, the director shall notify a credit bureau in the defendant's home state of the total amount of any unpaid fines or penalties. Any summons issued by the director shall state conspicuously that a defendant's failure to pay fines which total over \$100 shall result in notification by the director to a credit bureau in the defendant's home state.

16 New Section; Motor Vehicle Liability Policy; Statement of Residency Required. Amend RSA 264 by inserting after section 18 the following new section:

264:18-a Statement of Residency Required.

I. To be eligible for the issuance of a motor vehicle liability policy in the state, the insurance commissioner shall require any applicant for coverage under a motor vehicle liability policy, who is also named as the insured under the policy, to sign the following form which the

insurance company shall provide. This form shall be provided to the applicant without further evidence from that person that he is a resident of the state.

I, the undersigned, hereby attest that I am a resident of the state of New Hampshire. I understand that if I am found not to be a resident of the state of New Hampshire for the purposes of this section, I shall forfeit all rights to any claims or actions arising under or any payments or reimbursements made on the motor vehicle liability policy for which I am applying and to which this statement of residency attaches.

Signed: _____

Date: _____

Copies to: _____

Insurance Department _____

Applicant _____

II. Any nonresident who meets the requirements for nonresident registration under RSA 261:46 shall be exempt from the provisions of paragraph I.

III. The insurance commissioner shall adopt rules, under RSA 541-A, relative to defining "resident" for the purposes of paragraph I, including any criteria necessary for demonstrating residency in the state for the purposes of the statement required under paragraph I.

17 Motor Vehicle Warranties; Motorcycles Added. Amend RSA 357-D:3, V to read as follows:

V. If, after a reasonable number of attempts, the manufacturer, its agent or authorized dealer or its delegate is unable to conform the motor vehicle to any express warranty by repairing or correcting any defect or condition covered by the warranty which substantially impairs the use, market value, or safety of the motor vehicle to the consumer, the manufacturer shall, at the option of the consumer within 30 days of the effective date of the board's order, replace the motor vehicle with a new motor vehicle from the same manufacturer, if available, of comparable worth to the same make and model with all options and accessories with appropriate adjustments being allowed for any model year differences or shall accept return of the vehicle from the consumer and refund to the consumer the full purchase price or to the lessee, in the case of leased vehicles, as provided in paragraph IX. In those instances in which a refund is tendered, the manufacturer shall refund to the consumer the full purchase price as indicated in the purchase contract and all credits and allowances for any trade-in or down payment, license fees, finance charges, credit charges, registration fees, and any similar charges and incidental and consequential damages or, in the case of

leased vehicles, as provided in paragraph IX. Refunds shall be made to the consumer and lienholder, if any, as their interests may appear, or to the motor vehicle lessor and lessee as provided in paragraph IX. A reasonable allowance for use shall be that amount directly attributable to use by the consumer prior to the first repair attempt and shall be calculated by multiplying the full purchase price of the vehicle by a fraction having as its denominator 100,000 **or for a motorcycle 75,000** and having as its numerator the number of miles that the vehicle traveled prior to the first attempt at repairing the vehicle.

18 Rulemaking; Insurance Department. Amend RSA 400-A:15 to read as follows:

400-A:15 Rules [and Regulations]; Violation.

I. The commissioner shall have full power and authority to [make, promulgate, amend and rescind reasonable] **adopt** rules [and regulations], **under RSA 541-A**, for, or as an aid to, the administration or effectuation of any provision or provisions of this title **and RSA 264:18-a, III** and such other rules [and regulations] as are reasonably necessary to implement the provisions of this title.

II. Prior to the adoption of any rule [or regulation], or the amendment or repeal thereof, the commissioner shall publish or otherwise circulate notice of his intended action and afford interested persons opportunity to submit data or views either orally or in writing.

III. Any person who knowingly violates any rule[, regulation,] or order of the commissioner may, upon hearing, except where other penalty is expressly provided, be subject to such suspension or revocation of certificate of authority or license, or administrative fine not to exceed \$2,500 in lieu of such suspension or revocation, as may be applicable under this title for violation of the provision to which such rule[, regulation,] or order relates.

AMENDED ANALYSIS

This bill establishes a disability hanging placard for motor vehicles and makes other technical changes relative to motor vehicle laws.

This bill requires the director of motor vehicle to notify any state credit bureau of any defendant's unpaid motor vehicle fines which total more than \$100.

This bill also requires any person applying for motor vehicle liability coverage to sign a statement attesting to the person's residency in New Hampshire. The insurance commissioner shall adopt rules relative to defining residency for the purposes of the statement.

SENATOR HEATH: This bill has many parts. This bill came from committee earlier on and there were some drafting errors and the

committee took it back and made some changes. And the essential change that has controversial aspects to it, was on the Lemon Law section as it is in regard to motorcycles. The committee changed its original recommendation of using 100,000 mile formula, on motorcycles, down to 75,000 miles. We felt that that was a compromise. The manufacturers feel that it should be a 20,000 mile input into the formula and the dealers felt that it should be 100,000 and we felt that 75,000 was a compromise.

SENATOR CURRIER: This bill has been very confusing through the whole process because of a clerical error; the original amendments got a little bit disjointed from what the committee had actually tried to achieve in the amendments. Senator Heath had an amendment on the bill and the committee had another amendment on the bill, and the amendment relative to Senator Heath was taken care of by Senator Heath. The request to recommit was based on, from my standpoint anyway, on a technical error that probably could have been taken care of in enrolled bills; but I decided that while the bill was going back to the committee, and to actually address it again as opposed to enrolled bills, it was basically a reference to the statute and they had a '5' for a '3' and so forth and so on. When the committee got the bill back into committee, they also dealt with the policy change from what was actually in the committee amendment originally, changing it from 20,000 to 75,000 as a so-called compromise. One of the things that I would like to point out to the Senate is, when this bill was originally enacted into law last year, the 20,000 mile reference was inadvertently, through some kind of technical flaw, left out of the portion dealing with motorcycles, in the Lemon Law. It does however, have the reference for motorcycles with regard to leasing motorcycles with regards to and the numerator that is used there, and it refers to the 20,000 miles there as well. That reference is in RSA 357:D, 3, VIII-a and it says, "the reasonable allowance for the use shall be calculated by multiplying the agraate deposit and the rental payments made by the leasee on the motor vehicle by a fraction having its denominator 100,000 or for a motorcycle 20,000 having the numerator for the number of miles on the vehicle." I have a chart here that I would like passed out that indicates what this does with relationship to the denominator and the life expectancy of a vehicle with regard to the 20,000 miles and the 50,000 miles or the 100,000 miles for cars, and it, what it does in terms of the 75,000 miles. This information outlines that in fact the price on the vehicle that you would get back under the motorcycle provision is 86.6 percent, and for a car you get 50 percent, so you would actually get more back on the car. This as I was indicating earlier, has been nothing more than a technical problem from the

start. It seems that this whole thing becomes more and more diluted as we go on. I would like to offer a floor amendment to bring this back to where it was originally as reported out to the committee before it was tinkered with by the committee, again when it was referred back for other technical changes in the statute. I have some other documentation and unless the Senate wants to hear more, I will sit down and at some point at the appropriate time, I would like to offer the floor amendment to bring that number back.

SENATOR HEATH: Senator Currier, this chart that you handed out, could you tell me what the assumptions are?

SENATOR CURRIER: My understanding is, that it is the life expectancy of a car. The average life of a car according to EPA.

SENATOR HEATH: Yeah, that is the only assumption?

SENATOR CURRIER: And also on the motorcycles.

SENATOR HEATH: I am glad that you finally read it. Do you believe that motorcycle lifetime use is only 20,000 miles, do you think that that is a legitimate assumption?

SENATOR CURRIER: Not being an expert, Senator, I couldn't really tell you.

SENATOR HEATH: And you rely on the EPA to set that figure?

SENATOR CURRIER: Unfortunately, we rely on the EPA and other so-called experts on a lot of things. Do you have another question?

SENATOR HEATH: Yes. Are you aware that a compromise has been offered and rejected to the manufacturers to take bikes 250 CC and over and move it down to 50 for them, and to move it down to 20,000 for ones under that, and they flatly rejected that? Are you aware of that?

SENATOR CURRIER: I know that I rejected that as a compromise, I don't know about anybody else.

SENATOR HEATH: Representatives of the industry as well.

SENATOR CURRIER: Well, I don't know that to be a fact, but if you say so, I assume that it is.

SENATOR HEATH: Thank you.

Committee amendment adopted.

SENATOR CURRIER: I would offer the floor amendment which is the same amendment to the bill that was in the original recommendation of the Transportation committee. It is before you as #5765L.

Senator Currier offered a floor amendment.

5765L

Floor Amendment to HB 1455-FN

Amend the bill by replacing section 17 with the following:

17 Motor Vehicle Warranties; Motorcycles Added. Amend RSA 357-D:3, V to read as follows:

V. If, after a reasonable number of attempts, the manufacturer, its agent or authorized dealer or its delegate is unable to conform the motor vehicle to any express warranty by repairing or correcting any defect or condition covered by the warranty which substantially impairs the use, market value, or safety of the motor vehicle to the consumer, the manufacturer shall, at the option of the consumer within 30 days of the effective date of the board's order, replace the motor vehicle with a new motor vehicle from the same manufacturer, if available, of comparable worth to the same make and model with all options and accessories with appropriate adjustments being allowed for any model year differences or shall accept return of the vehicle from the consumer and refund to the consumer the full purchase price or to the lessee, in the case of leased vehicles, as provided in paragraph IX. In those instances in which a refund is tendered, the manufacturer shall refund to the consumer the full purchase price as indicated in the purchase contract and all credits and allowances for any trade-in or down payment, license fees, finance charges, credit charges, registration fees, and any similar charges and incidental and consequential damages or, in the case of leased vehicles, as provided in paragraph IX. Refunds shall be made to the consumer and lienholder, if any, as their interests may appear, or to the motor vehicle lessor and lessee as provided in paragraph IX. A reasonable allowance for use shall be that amount directly attributable to use by the consumer prior to the first repair attempt and shall be calculated by multiplying the full purchase price of the vehicle by a fraction having as its denominator 100,000 **or for a motorcycle 20,000** and having as its numerator the number of miles that the vehicle traveled prior to the first attempt at repairing the vehicle.

SENATOR HEATH: The committee looked at this the second time because they felt that this was a consumer piece of legislation. This protects not the floor amendment, this returns it to a manufacturers bill. We thought a balance was struck between the consumers interest and the manufacturers interest, and that is why we went with 75,000 instead of the 100,000 and instead of 20,000. This returns it to the single position of the manufacturer. If we are going to have a meaningful Lemon Law, it seems to me, that we have to have some teeth in it, and this essentially, would wipe that out, and that is why we did that. I would hope that you would sustain the committee

position; and since no one wanted to compromise on the manufacturing end, that you would reject this floor amendment and stay with the committee position on this and do the consumers a favor.

SENATOR RUSSMAN: Yes, I would rise in favor of what Senator Heath is saying. I think the problem is that some of the smaller motorcycles like the Vesper types and the trail bikes, they probably won't go 75,000 miles, but the heavy weight, the large Hondas, the large Harley Davidsons, no doubt will probably go more than that. Certainly 20,000 is too low, and probably 75,000 is a little too high, but I think that if we are going to decide, we certainly ought to decide on the side of the consumer and not the manufacturer; and while the offer that Senator Heath suggested was rejected, I think, that we have no choice but to support the committees recommendation of 75,000.

Recess.

Out of recess.

Senator Heath moved to have HB 1455-FN relative to motor vehicle laws, including suspension of wholesale motor vehicle dealer's registration, hanging disability placards, and other technical changes laid on the table.

Adopted.

LAIID ON THE TABLE

HB 1455-FN relative to motor vehicle laws, including suspension of wholesale motor vehicle dealer's registration, hanging disability placards, and other technical changes.

HB 1455-FN is laid on the table.

HB 1473-FN, establishing a New Hampshire scenic and cultural byways system. Transportation committee. Ought to Pass with Amendment. Senator Cohen for the committee.

5793L

Amendment to HB 1473

Amend RSA 231:158, II as inserted by section 2 of the bill by replacing it with the following:

II. Upon a road being designated as a scenic road as provided in RSA 231:157, any repair, maintenance, reconstruction, or paving work done with respect thereto by the state or municipality, or any action taken by any utility or other person acting to erect, install or maintain poles, conduits, cables, wires, pipes or other structures pursuant to RSA 231:159-189 shall not involve the cutting, damage or removal of trees, or the tearing down or destruction of stone

walls, or portions thereof, except with the prior written consent of the planning board, or any other official municipal body designated by the meeting to implement the provisions of this subdivision, after a public hearing duly advertised as to time, date, place and purpose, 2 times in a newspaper of general circulation in the area, the last publication to occur at least 7 days prior to such hearing, provided however that a road agent[, or his designee[, or a public utility] may, without such hearing, but only with the written permission of the selectmen, remove trees or portions of trees which have been declared a public nuisance pursuant to RSA 231:145 and 231:146, when such trees or portions of such trees pose an imminent threat to safety or property, [or when such removal] **and provided, further, that a public utility when involved in the emergency restoration of service, may without such hearing or permission of the selectmen, perform such work as is necessary for the prompt restoration of utility service which has been interrupted by facility damage [due to storms or other outside forces,] and when requested, shall thereafter inform the selectmen of the nature of the emergency and the work performed, in such manner as the selectman may require.**

Amend the bill by inserting after section 2 the following and re-numbering the original sections 3 and 4 to read as 4 and 5:

3 Scenic Roads; List Required. Amend RSA 231:157 to read as follows:

231:157 Scenic Roads; Designation. Any road in a town, other than a class I or class II highway, may be designated as a scenic road in the following manner. Upon petition of 10 persons who are either voters of the town or who own land which abuts a road mentioned in the petition (even though not voters of the town), the voters of such town at any annual or special meeting may designate such road as a scenic road. Such petitioners shall be responsible for providing the town clerk with a list of known property owners whose land abuts any of the roads mentioned in the petition. The town clerk shall notify by regular mail within 10 days of the filing all abutters along the road that lies within the town that a scenic road petition has been filed for and that an article to designate such road as a scenic road will appear in the warrant at the next town meeting. The voters at a regular town meeting may rescind in like manner their designation of a scenic road upon petition as provided above. Notice to the abutting landowners shall also be given as provided above. **Each town shall maintain and make available to the public a list of all roads or highways or portions thereof within the town which have been designated as scenic roads. Such list shall be kept current by updating not less than annually and shall contain sufficient infor-**

mation to permit ready identification of the location and extent of each scenic road or portion thereof, by reference to a town map or otherwise.

AMENDED ANALYSIS

This bill establishes a New Hampshire scenic and cultural byways system and, to administer such a system, a scenic and cultural byways council. The council may designate such highways as scenic and cultural if they satisfy certain criteria.

This bill also requires towns to maintain and make available to the public an updated list of scenic roads within the town.

SENATOR COHEN: HB 1473 establishes a scenic and byway program. It is an outgrowth of a 1990 study of the economic impact of scenic byways and a planning program initiated by our legislation last year. The proposed program is in keeping with our New Hampshire tradition by providing for a state-wide program that is built on the initiative of the individual communities. The communities will identify scenic and cultural byways which highlight the characteristics and traditions of their areas, those local nominations will then be reviewed and designated as scenic and cultural byways based on statewide criteria. This designation will encourage and support travel and tourism in these areas by including the scenic and cultural byways in state publications. The program also provides for the development of high quality of New Hampshire programs organized in a way that is consistent with programs in other New England states. The Office of State Planning has already begun to prepare a grant application to the federal government to fund this project. The amendment to the bill was developed by the Municipal Association and the Utilities in consultation with the Association of Conservation Commissions. It simply clarifies the language and the intent of the bill last year. The committee urges a vote of ought to pass as amended.

Committee amendment adopted.

Ordered to third reading.

HB 601-FN-A, establishing a public water access advisory board and a statewide public boat access program and continually appropriating a special fund for the purposes of the program and creating a new class of highways for access to public waters. Wildlife and Recreation committee. Ought to Pass with Amendment. Senator McLane for the committee.

5774L

Amendment to HB 601-FN-A

Amend the title of the bill by replacing it with the following:

AN ACT

establishing a public water access advisory board and a statewide public boat access program and continually appropriating a special fund for the purposes of the program and creating a new class of highways for access to public waters.

Amend the bill by replacing all after the enacting clause with the following:

1 Purpose. The general court recognizes the increase in demand for access to public waters for boating and other recreational uses. The purpose of this act is to establish an advisory board to coordinate state agency efforts relative to public access to public waters of the state and to provide for the acquisition, construction, refurbishment, maintenance and operation of new and existing public boat access areas.

2 New Chapter; Access to Public Waters. Amend RSA by inserting after chapter 233 the following new chapter:

CHAPTER 233-A**ACCESS TO PUBLIC WATERS**

233-A:1 Definitions. In this chapter:

I. "Board" means public water access advisory board established under this chapter.

II. "Department" means the fish and game department.

III. "Public access" means legal passage to any of the public waters of the state by way of designated contiguous land owned or controlled by a state agency, assuring that all members of the public shall have access to and use of the public waters for recreational purposes, as defined in RSA 271:20-a, I.

IV. "Public boat access area" means an area adjacent to a public body of water which is owned or controlled by the state, accessible to the public, and has been designated by the fish and game department as a boat launching area under the statewide public boat access program.

V. "Public bodies of water" means public waters as defined in RSA 271:20 and any impoundment of a stream, lake, pond, or tidal or marine waters of 10 acres or more, or any other body of water owned by the state or by a state agency or department.

233-A:2 Public Water Access Advisory Board.

I. A public water access advisory board is hereby established. This board shall be composed of the following:

(a) The executive director of the fish and game department or designee.

(b) The commissioner of the department of resources and economic development, or designee.

(c) The commissioner of the department of environmental services, or designee.

(d) The commissioner of the department of transportation or designee.

(e) The commissioner of the department of safety, or designee.

(f) The director of the office of state planning or designee.

(g) Two members of the general public appointed by the governor and council for 3-year staggered terms, with one being designated as the chairperson. The first appointed member shall serve an initial 2-year term.

(h) Two senators, appointed by the president of the senate.

(i) Two house members from the resources and recreation committee, appointed by the speaker of the house.

(j) A public member representing hunting interests, appointed by the governor and council.

(k) A public member representing fishing interests, appointed by the governor and council.

(l) A public member representing power boating interests, appointed by the governor and council.

(m) A public member representing conservation interests, appointed by the governor and council.

(n) A public member representing tourism interests, appointed by the governor and council.

(o) A public member representing a lakes association, appointed by the governor and council.

(p) A public member representing a rivers association, appointed by the governor and council.

(q) A public member representing camping interests, appointed by the governor and council.

(r) A public member representing winter sports, appointed by the governor and council.

(s) A person representing non-motorized boating interests, appointed by the governor and council.

(t) A member of the governor's commission on disability appointed by the governor and council.

II. The duties of the board shall be to:

(a) Advise and monitor state agency public access efforts including the statewide public boat access program.

(b) Coordinate activities of state agency public water access efforts.

(c) Serve as an advisory committee to the council on resources and development (CORD), alerting CORD to any potential problems which may inhibit state public water access efforts.

(d) Review agency project accomplishments at least annually.

(e) Recommend to the fish and game department, priorities for the siting and development of public boat access areas, based on the demands and needs for different types of public boat access areas and public water bodies giving consideration to any lists provided to the board by any associated groups or interested parties.

III. The board shall meet at least quarterly, but more often if necessary. The members shall serve without compensation, except that legislative members of the committee shall receive mileage at the legislative rate.

IV. The committee shall report annually to the speaker of the house, the senate president, and the appropriate house and senate oversight committees on state agency project accomplishments. The report shall include a list of existing public access points, and a target date for publication of all access points.

V. The fish and game department shall provide administrative support for the public access advisory board.

Public Boat Access Program

233-A:3 New Hampshire Statewide Public Boat Access Program. A program for the development of public water access areas for boating on public bodies of water is established. The goal of the program is the acquisition, construction, refurbishment, maintenance, and operation of new and existing public boat access areas.

233-A:4 Fish and Game Department. The fish and game department shall carry out the statewide public boat access program. The department shall in cooperation with the board:

I. Establish priorities for the siting and development of public boat access areas, based on the demands and needs for different types of public boat access areas and public water bodies, giving consideration to any list provided by the board, any associated groups, or interested parties.

II. Set standards of design and maintenance for public boat access areas and ensure that these standards are met.

III. Coordinate activities of state agencies in the development of boat access to public bodies of water.

233-A:5 Public Boat Access Area Facilities. The facilities to be provided at public boat access areas on water bodies may include, but are not restricted to, boat launching ramps, launching sites where small boats or canoes may be placed in the water, trails leading to

the water's edge, rest room facilities, parking, and such other types of facilities and amenities necessary to carry out the statewide public boat access program.

233-A:6 Design of Public Boat Access Areas. The fish and game department shall prepare plans and designs for public boat access areas and related facilities. The plans and designs shall provide for adequate buffer areas.

233-A:7 Acquisition and Retention. The fish and game department, in order to establish and improve public boat access areas, shall acquire and retain lands, easements, and interests or rights in land needed for the statewide public boat access program by donation, gift, purchase, lease, or condemnation upon terms and conditions that are consistent with state and federal guidelines. All newly acquired, constructed or refurbished service roads included in the statewide public boat access program shall be laid out as limited access facilities under the provisions of RSA 230:45.

233-A:8 Construction of Public Boat Access Areas. The fish and game department shall supervise the construction, refurbishment, or expansion of public boat access areas. This construction may be done by the fish and game department, by other state agencies, political subdivisions or by private construction firms under contract to the fish and game department.

233-A:9 Maintenance and Operation of Public Boat Access Areas. The fish and game department shall provide for the continuing maintenance and operation of public boat access areas, roads, and related facilities, including trash removal and cleanup. Maintenance and operation activities may be done by the fish and game department, by other state agencies, or by private firms or individuals, under contract to the fish and game department, or by arrangement with local municipalities or organizations, as considered advisable by the department. Moneys necessary to defray the costs of such maintenance and operation shall be a charge against the statewide public boat access fund established pursuant to RSA 233-A:13.

233-A:10 Public Boat Access Reports and Hearings. The fish and game department shall, before starting any project in the statewide public boat access program, comply with all state and federal requirements. Public boat access needs that do not meet the criteria for the use of federal funds may be constructed, refurbished or expanded by use of private or donated funds. Upon receipt of such funds, the department shall deposit them in the statewide public boat access fund established pursuant to RSA 233-A:13. The fish and game department shall provide an annual report to the advisory board, the speaker of the house, the senate president and the governor.

233-A:11 Public Water Supply.

I. No public boat access area shall be constructed to any public waters which serve as a municipal water supply without the approval of the department of environmental services.

II. No public boat access area shall be constructed to any public waters which serve as a public water supply for a public utility water company and which have no public access, without the consent of the public utilities commission.

233-A:12 Liability Limited. The fish and game department or any other political subdivision of the state shall not be liable for damages for bodily injury, personal injury, or water property damage occurring on any public boat access area.

233-A:13 Statewide Public Boat Access Fund Established. There is hereby established a nonlapsing statewide public boat access fund. The \$5 boat registration surcharge collected pursuant to RSA 270-E:5, II(d) and any other public access funds donated to the state shall be placed in this fund. All funds received under this section are continually appropriated to the fish and game department for the purposes of the statewide public boat access program established under this chapter.

233-A:14 Rulemaking. The executive director shall adopt rules, pursuant to RSA 541-A, relative to implementation of the statewide public boat access program.

3 New Subparagraph; Statewide Public Boat Access Fund. Amend RSA 6:12, I by inserting after subparagraph (uu) the following new subparagraph:

(vv) Moneys received under RSA 233-A:13 and RSA 270-E:5, II(d) which shall be credited to the statewide public boat access fund established in RSA 233-A:13.

4 Allocation of Funds.

I. Expansion of the current department public boat access program shall be a charge against the statewide public boat access fund as follows:

	FY 1993
010 Personal services-permanent	\$133,604
020 Current expenses	9,201
050 Personal services-other	40,000
060 Benefits	41,945
070 In-state travel	250
Total	\$225,000

II. Funds allocated for classified personnel positions shall be utilized and positions filled with prior approval of the fiscal committee and when the executive director determines that additional personnel are needed to develop and expand the program. Otherwise,

these funds shall be used to carry out the provisions of RSA 233-A, the statewide public boat access program.

5 Positions Authorized. The executive director of the fish and game department is authorized to establish the following classified positions for the statewide public boat access program established in section 2 of this act: one civil engineer III, labor grade 23; one biologist II, labor grade 22; one land agent, labor grade 21; one engineering technician IV, labor grade 18; and one construction foreman, labor grade 15.

6 New Paragraph; Council on Resources and Development. Amend RSA 162-C:2 by inserting after paragraph VII the following new paragraph:

VIII. Provide oversight relative to the statewide public boat access program, work with the public water access advisory board and provide recommendations to the governor and executive council regarding public access.

7 New Subparagraph; Boat Registrations; Public Access Surcharge. Amend RSA 270-E:5, II by inserting after subparagraph (c) the following new subparagraph:

(d) \$5 for each registration specified in paragraph I. The surcharge collected under this subparagraph shall be paid into the statewide public boat access fund established under RSA 233-A:13.

8 New Paragraph; Highways to Public Waters. Amend RSA 229:5 by inserting after paragraph III the following new paragraph:

III-a. Class III-a highways shall consist of new boating access highways from any existing highway to any public water in this state. All class III-a highways shall be limited access facilities as defined in RSA 230:44. Class III-a highways shall be subject to the layout, design, construction, and maintenance provisions of RSA 230:45-47 and all other provisions relative to limited access facilities, except that the executive director of the fish and game department shall have the same authority for class III-a highways that is delegated to the commissioner of the department of transportation for limited access facilities. No access shall be granted to an abutter for any class III-a highway. A class III-a highway may be laid out subject to gates and bars or restricted to the accommodation of persons on foot, or certain vehicles, or both, if federal funds are not used. The executive director of fish and game may petition the governor and council to discontinue any class III-a highway.

9 Reference Change. Amend the introductory paragraph of RSA 229:5 to read as follows:

Highways of the state shall be divided into [6] 7 classes as follows:

10 Reference to New Classification. Amend RSA 229:5, VII to read as follows:

VII. Class VI highways shall consist of all other existing public

ways, and shall include all highways discontinued as open highways and made subject to gates and bars, **except as provided in paragraph III-a**, and all highways which have not been maintained and repaired by the town in suitable condition for travel thereon for 5 successive years or more.

11 New Section; Jurisdiction of Class III-a Highways. Amend RSA 230 by inserting after section 44 the following new section:

230:44-a Jurisdiction of Class III-a Highways. For the purposes of this subdivision, the executive director of the fish and game department shall have authority over all class III-a highways.

12 Reference Change. Amend RSA 215-A:7, I to read as follows:

I. No person shall operate a snow traveling vehicle on the traveled portion of any public way classified as a class I, class II, class III, **class III-a**, class IV, class V, or class VI highway, where said highway is maintained for winter use by conventional motor vehicles, except as specifically provided in RSA 215-A:6, IX and X, and in accordance with RSA 215-A:7, II.

13 Reference Change. Amend RSA 215-A:10, I, II to read as follows:

I. A person shall not operate an OHRV on the traveled portions, sidewalks adjacent to a class I, class II [or], class III, **or class III-a** highway or the plowed snowbanks adjacent to said highways.

II. Notwithstanding any provisions of the law to the contrary, a person may operate an OHRV on a class I, class II [or], class III, **or class III-a** highway that is not maintained for winter use by conventional motor vehicles; provided, however, that if a class I, class II [or], class III, **or class III-a** highway is not maintained for winter use by conventional motor vehicles and said highway is opened for an OHRV trail, said highway shall be so posted and conventional motor vehicle traffic prohibited. The commissioner of the department of transportation upon notification to the supervisor of the bureau may open at any time a class I, class II or class III highway which has been closed for conventional motor vehicle use.

14 Reference Change. Amend RSA 231:93 to read as follows:

231:93 When Not Liable. Towns shall not be liable for such damages happening upon class I, class III, **class III-a** or class VI highways, or on state maintained portions of class II highways[, or on highways to public waters laid out by a commission appointed by the governor and council]. Towns shall not be liable for such damages happening upon any class V highway constructed with joint funds unless caused by neglect of the town in the maintenance or repair of such bridge, culvert, sluiceway, or embankments and warning signs or structures which renders it unsuitable for the travel thereon.

15 Reference Change. Amend RSA 236:20 to read as follows:

236:20 Snow Obstruction. Any person who shall put or place or cause to be put or placed any snow or ice upon the surface of the traveled portion of any class I [or], class III, **or class III-a** highway or state maintained portion of any class II highway for any purpose, except to provide a place necessary for crossing, recrossing and traveling upon said highways by sleds, logging or farm equipment, shall be guilty of a violation if a natural person, or guilty of a misdemeanor if any other person. The provisions of this section shall not apply where snow or ice is pushed across the traveled surface of said highways for the purpose of snow removal from land adjoining said highways.

16 Reference Change. Amend RSA 236:29 to read as follows:

236:29 Removal of Obstructions. The department of transportation may remove all obstructions in class I, class II [or], class III, **or class III-a** highways, and the highway agent of any city or town may remove all obstructions on any other highway and on town maintained portions of class II highways.

17 Reference Change. Amend RSA 236:56, II to read as follows:

II. It shall be unlawful for any person to operate a motorbike, motorcycle, trail bike, all terrain vehicle, including 4-wheel drive vehicles or other motorized 2 or 3 wheeled trail type vehicles and track type vehicles within or upon highway easements or rights-of-way adjacent to the traveled way of any class I [or], class III, **or class III-a** highway or state maintained portion of any class II highway with the following exceptions:

18 Reference Change. Amend RSA 236:118 to read as follows:

236:118 Location Requirements. At the time and place set for hearing, the local governing body shall hear the applicant and all other persons wishing to be heard on the application for certificate of approval for the location of the junk yard. In passing upon the application, after proof of legal ownership or right to the use of the property by the applicant for the license period, it shall take into account the nature and development of surrounding property, such as the proximity of churches, schools, hospitals, public buildings or other places of public gatherings; and whether or not the use of the proposed location can be reasonably prevented from affecting the public health, safety, or morals by reason of offensive or unhealthy odors or smoke, or of other causes. In no case may a license be granted for a new junk yard located less than 660 feet from the right-of-way lines of class I, class II [and], class III, **or class III-a** highways or located less than 300 feet from the right-of-way lines of class IV, class V and class VI highways.

19 Reference Change. Amend RSA 265:78 to read as follows:

265:78 Competitive Bicycle or Moped Races. No person shall conduct or participate in any competitive bicycle or moped race on any class I [or], class III, **or class III-a** highway or on the state-maintained part of any class II highway, unless such race is sponsored by a recognized bicycle or moped organization and the sponsor of such race has obtained, prior to such race, the written approval of the commissioner and of the police department of each city, town or place in which such race is to be held. **In the case of a competitive bicycle or moped race on a class III-a highway, the sponsor of the race shall also obtain the approval of the executive director of the fish and game department.** The commissioner and the executive director of the fish and game department may require insurance, police coverage or other regulations to insure the safety and protection of the public, and the permit may exempt competitors from such requirements of this chapter relative to rules of the road as are not inconsistent with public safety.

20 Repeal. RSA 230:63-71, relative to layout of highways to public waters, are repealed.

21 Effective Date.

I. Sections 1 - 7 of this act shall take effect January 1, 1993.

II. The remainder of this act shall take effect July 1, 1992.

AMENDED ANALYSIS

This bill establishes a public water access advisory board and a statewide public boat access program, which is to develop public boat access and recreational access to public waters. The fish and game department is to carry out the program.

The bill establishes a nonlapsing statewide public boat access fund. The \$5 boat registration surcharge collected and any other public access funds donated to the state shall be placed in this fund. All funds are continually appropriated to the fish and game department for the purposes of the statewide public boat access program.

This bill creates a class III-a highway classification. Class III-a highways shall consist of all existing or proposed highways from any existing highway to any public water in this state. All class III-a highways shall be limited access facilities, as defined by RSA 230:44. A class III-a highway may be made subject to gates and bars or restricted to the accommodation of persons on foot, or certain vehicles, or both. Class III-a highways shall be under the jurisdiction of the fish and game department.

SENATOR MCLANE: I am offering to do this bill for Senator Heath because I had a nice experience last night of going to a Public Water Access out in east Concord, and there was a family walking a

dog, and a man in a canoe with two kids, and us elderly people with our binoculars looking at ducks; and I thought, this is a wonderful thing that the Fish and Game Department has done; and so I rise with great enthusiasm, in favor of any bill that would create Public Water Access for the state of New Hampshire.

Committee amendment adopted.

SENATOR HUMPHREY: Senator McLane, my concern is about the authorization to create some new state employment positions, do I understand this correctly?

SENATOR MCLANE: There is an appropriation and my impression is that . . . I assume Roger, that we left . . . with amendment takes the appropriation out?

SENATOR HUMPHREY: I am looking on page eight of the amendment. That is to say of the calendar on page eight. Near the top, where it says positions authorized. "Executive Director of the Fish and Game is authorized to establish filing classified positions, one Civil Engineer and etc".

SENATOR MCLANE: Yes, you are correct.

SENATOR HUMPHREY: Well, why do we need all of these new employees?

SENATOR MCLANE: I guess that there is a certain philosophy of government which says that you can constantly add new duties to government and not pay for them. I think that it is very clear that it is within public policy to want to create more public access. There is a great deal of work that is involved. If you have seen a nice one, you know that there is a great deal of engineering, there is land purchase, there is a lot of things to do. If you think that there are people sitting over in Fish and Game that aren't doing anything now, then you would not vote for the appropriation. It is my assumption that the appropriation is needed and that it will go to Senate Finance.

SENATOR HUMPHREY: How much is the appropriation?

SENATOR MCLANE: The appropriation is \$225,000. My assumption is that that will come out of Fish and Game funds as the budget calls for.

SENATOR HUMPHREY: Are not most of the Fish and Game expenditures covered by fees of various kinds?

SENATOR MCLANE: They all are, almost. It is perfectly possible, I suppose . . .

SENATOR HEATH: I was going to say that TAPE INAUDIBLE Robinson Funds that may be involved in this. Generally speaking, Fish and Game has, I believe, the funds to fund this. It takes a spe-

cialist in access, because there are enormous complications. It has become a full-time job to find the access that we already own because of title things, like cattle landings and rain groves and to make purchases that involve partial gifts and so on. We felt that access has been delayed too long and it is only going to get more expensive. This is a good time for both the people who want to give partially to the state and a good time for the state which is doing any purchasing and improvements, because the costs are as low as they're apt to be for the far and foreseen future.

SENATOR MCLANE: There may be highway funds in there now.

SENATOR HEATH: Yeah, there may be highway funds involved, but in any case, we just felt that this was the time to strike and access has been delayed to such an extent that essentially the wealthy are the only ones now that can afford to be on the lakes with private access and this is for the common man and for anybody.

SENATOR HUMPHREY: Did the Senator say that the commission already has funds to cover this?

SENATOR HEATH: I cannot tell you 100 percent that that is the case, but it is my understanding, my belief, that that money would come out of present Fish and Game Funds, not out of General Fund money.

SENATOR HUMPHREY: So the fund has a surplus at the moment?

SENATOR HEATH: It has, and it is now either a portion of that or a reallocation of the responsibilities . . .

SENATOR MCLANE: Or a match to federal.

SENATOR HEATH: I am assuming, I could be wrong. But it is my understanding that that is the case. They do have a slight surplus. There is a fee, I am not sure that that goes to that appropriation, it goes into the access fund, but \$5 will be added on to each boat registration.

SENATOR HUMPHREY: Thank you.

Referred to Finance (Rule #24).

HB 1052, relative to the appointment of the executive director of the fish and game department and allowing the governor to make more frequent appointments to the fish and game commission. Wildlife and Recreation committee. Ought to Pass with Amendment. Senator Fraser for the committee.

5805L

Amendment to HB 1052

Amend RSA 206:8, I as inserted by section 2 of the bill by replacing it with the following:

I. The governor and council shall appoint an executive director of the fish and game department from a list of [5] **3 or more** names submitted to the governor and council by the commission, each of whom shall be a person with knowledge of, and experience in, the requirements for the protection, conservation and restoration of the wildlife resources of the state and who shall be a competent administrator. **In the event of consideration for reappointment of the executive director, the commission shall submit one or more names to the governor and council.** The executive director shall hold office for a term of 5 years from the date of his appointment and until his successor is appointed and qualified. A vacancy in such office shall be filled for the unexpired term. The governor and council shall have the authority to remove the executive director at any time, but only for just cause pursuant to RSA 4:1. [In such case, the governor and council shall deliver to the executive director a copy of the charges against him and afford him an opportunity of being heard publicly in his own defense in person or by counsel after being given not less than 15 days' notice.] The executive director shall not hold any other public office, and shall devote his entire time to the service of the state in the discharge of his official duties. He shall receive the compensation prescribed in RSA 94:1-4, and shall be reimbursed for all actual and necessary traveling and other expenses incurred by him in the discharge of his official duties. Before entering upon the duties of his office, he shall take the oath prescribed by the constitution, and shall, in addition thereto, swear that he holds no other public office nor any position under any political committee or party. Such oath shall be filed with the secretary of state. He shall have general supervision and control of all activities, functions and employees of the fish and game department, and shall enforce all the provisions of the laws of this state relating to fish, wildlife resources and marine species, and shall exercise all necessary powers incident thereto.

AMENDED ANALYSIS

This bill allows more than 2 members to be appointed to the fish and game commission each year.

This bill also requires the fish and game commission to submit a list of 3 or more names to the governor for the appointment as executive director of the fish and game department. Current law requires a list of 5 or more names. In the event of consideration for reappoint-

ment of the executive director, the commission shall submit one or more names to the governor and council.

This bill also limits the term of the executive director to 4 years.

SENATOR FRASER: Mr. President, the amendments to the bill are on page 13 of the calendar. There are three basic changes that the committee recommends to be adopted. The first one is to reduce the number of candidates that must be provided by the commission for the position of Executive Director. The current law requires five, the committee felt that three was an appropriate number. The second amendment and probably the most important part is on consideration for reappointment. The commission only required to either have one or more candidates. What is happening, is that often the commission is comfortable with the Executive Director, they want he or she to be reappointed, but under the current law, they would have to come up with alternative names, so we are recommending that the change be made so that the commission has the option to recommend to the Governor, anywhere from one or more candidates. The third part, which has to do with reducing the term of office of the Executive Director from five to four years. Apparently four years is a rather common number so far as appointments across the state, and the committee felt that this was appropriate. We urge adoption of the amendment, Mr. President.

SENATOR DISNARD: Mr. President and members of the Senate, I rise in strong opposition to this bill. I hope that you will look at page 13. What hasn't been mentioned, unless I am misreading it, is what is in brackets. Halfway down it indicates and I quote, "in such case the Governor and Council", in other words, they can get rid of the Executive Director without offering him under the present law, charges against him and afford him the opportunity to be heard publicly. I don't think that this is realistic, and I think that something is trying to be slipped by. Why would that not be in the analysis. I would hate to be involved with a director, an esteemed director, and have politics get into it and someone be upset with the director and take away the regulation or the statute that indicates he would not receive a written notice and would not have an opportunity to hear the charges against him or her, and I have a problem with that. If I am reading it correctly, in the brackets on page 13.

Recess.

Out of recess.

Senator Heath moved to have HB 1052 relative to the appointment of the executive director of the fish and game department and allowing the governor to make more frequent appointments to the fish and game commission laid on the table.

Adopted.

LAIID ON THE TABLE

HB 1052 relative to the appointment of the executive director of the fish and game department and allowing the governor to make more frequent appointments to the fish and game commission.

HB 1052 is laid on the table.

HB 1183-FN, relative to the importation, propagation and possession of aquatic and wildlife species. Wildlife and Recreation committee. Ought to Pass. Senator Heath for the committee.

SENATOR HEATH: This doesn't do anything to affect your life, Gloria. This really just recodifies and strengthens the laws that exist in terms of taking wild animals into domestic production which is a growing industry in the state of New Hampshire. Whether it is raising certain kinds of deer meat or buffalo or salmon for smoking or salmon for restaurants. The Department felt that it needed to recodify and get these laws together and get them in one section and strengthen them, and that is what this does.

Adopted.

Ordered to third reading.

HB 1453-FN, establishing a study committee to review existing shellfish waters monitoring and closure procedures. Wildlife and Recreation committee. Ought to Pass with Amendment. Senator Cohen for the committee.

5767L

Amendment to HB 1453

Amend the bill by replacing section 2 with the following:

2 Membership. The committee shall consist of the following members all of whom shall be appointed no more than 30 days after the effective date of this act:

I. Two senate members, appointed by the president of the senate.

II. Two house members, appointed by the speaker of the house.

III. The executive director of the department of fish and game, or designee.

IV. The director of the division of public health services, department of health and human services, or designee.

V. The director of the division of water supply and pollution control, department of environmental services, or designee.

VI. The director of the division of parks and recreation, department of resources and economic development, or designee.

VII. The coastal commissioner of the department of fish and game, or designee.

VIII. Four members of the general public, one of whom shall be a researcher from the university of New Hampshire actively involved in shellfish research and knowledgeable about biological sampling and analysis, appointed by the governor and the executive council.

AMENDED ANALYSIS

This bill establishes a study committee to review existing shellfish waters monitoring and closure procedures.

SENATOR COHEN: This bill establishes a study committee to review existing shellfish testing and the monitoring procedures as well as reviewing the procedures for closing shellfish waters when they are found to be contaminated and to keeping the areas closed. They haven't been reviewed for about three years. Right now the Shellfish Regulation, the committee by the way urges ought to pass. The Shellfish Regulation is controlled by federal standards. These standards have closed all shellfish waters for three years without any kind of reauthorization or public hearings. Shellfish have been being gathered illegally, they have been pirated out, and have been, apparently, consumed with little harm for a number of years. In other words, it seems possible that the beds may be staying closed due to faulty data or to inadequate sampling. This bill establishes a study committee with experts to review shellfish water testing and monitoring. The committee will then make recommendations to the legislature. It will insure that New Hampshire will have systems in place that will adequately and accurately monitor the condition of the shellfish beds prior to closing the waters to the public. This will not diminish any environmental or health standards. The committee urges ought to pass.

SENATOR W. KING: Senator Cohen, there has been some discussion around that this is a turf war, aimed at taking the responsibility for making these determinations about this health issue away from the Division of Public Health, would you address that issue and, I guess, talk about whether you have made any changes in the composition of the committee to reflect that concern?

SENATOR COHEN: I haven't made any changes in the committee. It does establish a study committee which would certainly include the Division of Public Health, the Department of Health and Human

Services; and they would certainly be involved in this, and would have total access to input to the committee to how it is being recommended.

SENATOR HOLLINGWORTH: Senator Cohen, doesn't the Division of Public Health have to adhere to the federal code as to what is safe and what isn't? I mean I haven't heard any complaints that they have not been living up to the standards that they have been required to meet.

SENATOR COHEN: There is no question about that, they have been. The question is: has there been adequate monitoring and is it accurate, when was the last time that it was done, how thoroughly is it being tested? There is a possibility that the beds may be safer and that they may actually meet federal standards, but they haven't been able to be tested appropriately.

SENATOR SHAHEEN: Senator Cohen, can you tell me, did this bill start out as a study committee?

SENATOR COHEN: I am not certain of that. I am looking at my notes. Yes, I believe that it did. I am not certain as to how it started, to be perfectly honest.

SENATOR SHAHEEN: Can you tell me who testified in support of this study committee?

SENATOR COHEN: Yes, let's see, there was Wilbur Lapage who did testify in support of it, there was quite a bit of testimony. I am just reviewing the notes. Fish and Game, I believe, also supported it, thank you, Senator Heath. I believe that that may be it.

SENATOR SHAHEEN: Can you tell me who testified in opposition to the bill?

SENATOR COHEN: Well let's just see here in my notes, Water Supply and Pollution Control, I believe, felt that the standards were enough, is that correct?

SENATOR HEATH: I don't think that they testified, did they?

SENATOR COHEN: Richard Flanders, I have his testimony.

SENATOR HEATH: Yes, Rick Flanders was there.

SENATOR SHAHEEN: So that they testified that this committee is not needed, is that correct?

SENATOR COHEN: That is correct.

SENATOR HEATH: I didn't remember that to be their testimony, but . . .

SENATOR COHEN: I am just reviewing it here, if I may. He felt that the issues had been dealt with three years ago. He also said

that they are in the business of pollution abatement, and that he felt that this may be a statement that they weren't doing their jobs well enough, and that was one reason that he opposed it, Mr. Flanders.

SENATOR SHAHEEN: That was the only opposition?

SENATOR COHEN: You are testing my memory here. Perhaps, I don't know if Senator Heath may have his notes.

SENATOR HEATH: I think that it is wrong to portray this as a turf law. I think what is at stake here is this: There is a recreational and to a small extent, a commercial industry on our coast, in clams. And there are some oversights of that to protect the health and the safety of the residents of the state of New Hampshire. And nobody in any of this is suggesting that the health and safety of the people of the state of New Hampshire be at risk, nobody is suggesting that. The federal law has guidelines, the state has every interest, and the last thing that Fish and Game or the Parks and Forestry Division of the state of New Hampshire wants is one case of poisoning, it is the worse thing that could happen in either case. So it has no less a concern than the Department of Health. But those agencies have another concern, and that is the health of the state of New Hampshire, fiscally and economically; and so the Health Department, it is felt by those people and I think, the majority of the committee, just to automatically, year after year, to close the clam flats. They haven't taken tests of the meat, and they haven't taken tests during what would be the open season. They take tests of the water surrounding it at a time when they would be closed anyways. This sets up a study committee to look at a better way to do this. Now the important thing to remember that the states surrounding us, have probably more pollution, and their clam flats are open much more than ours, and we have several businesses in New Hampshire shucking their clams from other states, helping those states make money and our flats have been closed just sort of as a routine thing, year after year. There will never be a case of poisoning if you never let anybody take the clams, but people are taking clams illegally, and some of those may be coming back and being shucked in New Hampshire and going out as clams from other states. This is to look over that situation. I think that it is very badly needed, and I did not get the impression that anybody was opposed to this except for the Department of Health, and I guess their nose was a little bent out of shape because they thought that it was a reflection on their ability to do the job and they probably will be doing the job. This committee just wants to look over the criteria and see if there is a better way to do it, and find a better balance between the two industries, the balance has obviously been lost to the Department of Health. I would urge the

passage of this. Councilor Griffin from the seacoast who represented the seacoast here as well as in the Governor's Council, felt very strongly about this, and I agree with her. I think that it is an important resource that we need to look at, and this just studies that question.

SENATOR HOLLINGWORTH: As you know, my district is the seacoast and I have not heard from one person, not one person who digs clams in the area supporting this legislation.

SENATOR HEATH: I am not sure that they know about this, the clam diggers should be pretty scarce, they haven't been in business for three years. They probably have gone on to something else.

SENATOR HOLLINGWORTH: Well, perhaps that is the case, but my point is that it seems strange that if this was something that they wanted, to keep the flats open longer, that they would have certainly known this legislation was out there, and they would have been calling me on the phone to endorse it. I have not heard that. What I have heard is that in the past that we have done a good job in New Hampshire of maintaining a good health protection and this would be the worse time in which we would change our standard. I am a little concerned . . .

SENATOR HEATH: The standards can't be changed, they are federal standards. The standards are a federal standard. The committee would look at how to best arrive at testing for those standards and in terms of the safety record, it is perfect if you don't allow somebody to do something, you can never make a mistake. There would never be an automobile accident if you prohibited driving automobiles on our roads for three years, that would get rid of automobile accidents.

SENATOR COHEN: Senator Hollingworth, I just wanted to know that you said that you haven't heard from any people in your district, any clambers in favor of this bill, have you heard from any in opposition to this bill?

SENATOR HOLLINGWORTH: I haven't heard from a single person on this bill and that is what gives me some strange feeling that this is an inappropriate thing to be doing at this time.

SENATOR HEATH: It is your district.

SENATOR FRASER: Mr. President, the vote coming out of the committee was 2 to 1, ought to pass, and I was the one. I think that Senator Wayne King hit it right on the nose when he said that this was a turf battle . . .

SENATOR HEATH: He asked if it was, he didn't say that it was.

SENATOR FRASER: There is no question that they had tried to resolve this issue amicably between the Parks and Recreation Department and the Public Health Department. And by the way, my recollection of the public hearing was that Fish and Game was ambivalent about the bill itself. Senator Shaheen asked a question of how this bill started, this bill started as a venison bill by the way, and then at the public hearing, then the bill was changed. I was satisfied at the public hearing, the Division of Public Health was doing exactly what was mandated from the federal government so far as testing of the waters and keeping those clam beds closed. I readily acknowledge the fact that I am not an expert on the subject, but I made a statement at the public hearing that I thought that this was a turf war between two agencies and that because they were not able to amicably come to an agreement, they are asking this general court to be a referee. So for that reason, although in my recollection I can't ever remember standing in opposition to a committee report or a committee of my own, but in this case here, I feel that this bill should be reported out as inexpedient to legislate.

SENATOR HEATH: Senator Fraser, is this not just a study bill?

SENATOR FRASER: Yes, it is.

SENATOR HEATH: If I made the assumption, which I do not make the assumption that this is just a turf battle, why wouldn't a study bill that doesn't do anything but study the question and includes the agency that is raising the beef about this piece of legislation, why wouldn't that be the way to resolve it, since they haven't been able to resolve it, if you go under the assumption that it is a turf battle? I mean why wouldn't that be the way to do it, if your assumption was correct?

SENATOR FRASER: Senator Heath, you presided at the public hearing, I would assume that you would acknowledge that the Division of Public Health has the responsibility to do the testing, number one; and secondly, I would hope that you would acknowledge the fact that they do the testing in a seasonable manner. They do it whenever it is suppose to be done, and that they have the responsibility of keeping those beds closed if there is anything deleterious so far as the water is concerned. To me, to create a study committee at this juncture, serves no useful purpose, because there is nothing to study. The Division of Public Health is doing exactly what they have been called upon to do by the general court, and I don't know what a study committee would prove.

SENATOR HEATH: Well, I guess if you were at the hearing, you were at part of it and you weren't at part of it, you would have understood that the controversy circulated around whether they were in

fact doing the testing at the proper time and in the proper manner, to determine whether the federal standards were being met. Nobody has argued about the standards. If it is turf, it is two agencies that feel that it is not being done correctly against one agency who simply closes them almost automatically with a minimum of testing, and with testing that is in some controversy over whether it is appropriate when and how it is done. A study bill is not whacking anybody, it is looking into the question and they are represented on the study. I guess I need to know where is the down side to this legislation?

SENATOR FRASER: Is that a question?

SENATOR HEATH: No, that was in answer to your question.

SENATOR HOLLINGWORTH: I am going to ask you to vote against this piece of legislation. I think that the Health Department is doing the job that they have been assigned. The people that are appointed on this study committee are not the ones that have to make the decision or carry the responsibility, should people become ill. I think that there has been no reason that I have seen from anyone that we should be changing anything that we are doing now. This seems to be the worse time in which we would do anything to reduce standards. For the Parks and Recreation and Economic Development to be involved in the decision of whether the clam flats or the health and safety of the people to be at risk, is not, in my idea, good legislation. I would ask you not to support passage of this legislation.

SENATOR HEATH: Senator Hollingworth, is there anything in here that suggests to you that the end result of this would leave any other agency other than the one presently doing it, doing it?

SENATOR HOLLINGWORTH: What I read from this is, that certainly the people who could be assigned to this study committee could be those who for some reason or another are not satisfied with what the Health Department is doing. I would certainly rather see fact and evidence that they are not doing their job, rather than to lower any standard. Therefore, I would not support this legislation.

SENATOR HEATH: I premise this question with a statement of fact. The standard can't be lowered, it is a federal standard and nobody is arguing over the standard. Nobody wants anybody hurt by the eating of shellfish. With that premise, I would ask you, why would you deny the people in your district an examination of the process that is so important to the full use and the safe use of something that is an industry in your district?

SENATOR HOLLINGWORTH: I think that we are not denying them that. I have not heard any complaints from anyone in that in-

dustry that they have been denied the right to dig when they want to dig, when the flats seem to be tested and seem to be safe. I would further say that if there is a problem that they are not being tested enough, we may have to look at ourselves to see whether we are funding enough people to be doing the testing, and that is the situation, and not necessarily the situation that Health and Human Services aren't doing their job at the season that someone, and it appears that someone who brought this bill forward, thinks that they are not testing it. I do not think that this piece of legislation is needed.

SENATOR HEATH: Senator Hollingworth, don't you understand that this bill would allow them to say that it needs more funding. This bill would allow them to say that the standards are being met. All that can happen, all that this bill does is allows an examination of the questions that have been raised by two agencies; and don't you see that it would give those people in your district, there are none of these in mine, an opportunity to bring their complaints forward or their support of the agencies job and have this aired out.

SENATOR HOLLINGWORTH: I have said, as I will repeat for the last time, I hope, I have not heard any complaints from the people in my district that do this for a living. They have not come forward and said that they have had any problems with the way that the law is handled at the present time; therefore, I think that it is unnecessary legislation.

Senator Colantuono moved the question.

Adopted.

Question is on the committee amendment.

A roll call was requested by Senator Heath.

Seconded by Senator Fraser.

The following Senators voted Yes: Oleson, Heath, Currier, Disnard, Bass, Pressly, Nelson, Colantuono, Podles, Humphrey, Delahunty, Cohen.

The following Senators voted No: W. King, Fraser, Hough, Roberge, Blaisdell, McLane, J. King, Russman, Shaheen, Hollingworth.

Yeas 12

Nays 10

Committee amendment adopted.

Ordered to third reading.

Senator Hollingworth in opposition to HB 1453.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

SB 399-FN-L, requiring rabies shots for cats.

SENATE NON CONCURS WITH HOUSE AMENDMENT REQUEST COMMITTEE OF CONFERENCE

SB 399-FN-L, requiring rabies shots for cats.

Senator Heath moved nonconcurrence and request a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Heath, Cohen, Roberge.

RESOLUTION

Senator Delahunty moved that the business of the day being completed, the Senate recess to the Call of the Chair for the sole purpose of appointing members of Committee of Conferences and that when we adjourn, we adjourn until Tuesday, April 21, 1992 at 10:00 a.m.

Adopted.

LATE SESSION MOTION OF RECONSIDERATION

Senator Shaheen moved reconsideration whereby we ordered HB 1344 requiring the house environment and agriculture and the senate environment committees to review the laws relative to solid waste management to third reading and final passage.

Adopted.

SENATOR SHAHEEN: The pages are passing out the floor amendment which makes two minor changes in the amendment that were talked about in committee that didn't get incorporated into the lan-

guage as it was amended. If you will look at the floor amendment, one is primarily an editorial change, it corrects the fiscal years. The second one, under III, adds the language, "such terms", on the top of page two, this is not in italics. The first line, "such terms and conditions as they may deem appropriate concerning reimbursement to the state." This was language that was requested by the Governor's Office, which has to do with how the Governor and Council would award any bonding guarantee. I would urge the Senate to support this floor amendment so that we can clean up the language in the bill.

Senator Shaheen offered a floor amendment.

5882L

Floor Amendment to HB 1344-LOCAL

Amend RSA 33:3-f, I as inserted by section 2 of the bill by replacing it with the following:

I. The governor and council may award an unconditional state guarantee of the principal of and interest on bonds issued under RSA 33:3-e. The full faith and credit of the state shall be pledged for any such guarantees of principal and interest. The amount of the state guarantee available under this section shall not exceed the following principal amounts, plus interest:

- (a) Effective upon passage \$25,000,000
- (b) For the fiscal year 1995, an additional 25,000,000
- (c) For the fiscal year 1996, an additional 10,000,000
- (d) For the fiscal year 1997, an additional 10,000,000
- (e) For the fiscal year 1998, an additional 10,000,000

Amend RSA 33:3-f, III as inserted by section 2 of the bill by replacing it with the following:

III. In connection with the award of a state guarantee, the governor and council may impose such terms and conditions as they may deem appropriate concerning the bonds and such terms and conditions as they may deem appropriate concerning reimbursement to the state if any state funds are used to honor the guarantee. Such terms and conditions may be contained in an agreement between the state and the municipality, to be executed on behalf of the state by the governor and the state treasurer and on behalf of the municipality by its governing body.

Floor amendment adopted.

Ordered to third reading.

NOTICE OF RECONSIDERATION

Senator Delahunty has served notice of reconsideration on HB 1161 relative to the composition of the wetlands board. Executive Departments committee.

RESOLUTION

Senator Currier moved that the business of the day being completed that the Senate now recess to the Call of the Chair.

Adopted.

ANNOUNCEMENTS**Third Reading and Final Passage**

HB 646-FN, relative to the disposal of certain solid waste products and leaf and yard waste.

HB 740-FN, relative to increasing political expenditure limitations for certain candidates and relative to the penalty for exceeding total expenditure limitations.

HB 1124-LOCAL, allowing a town to apply certain rental welfare assistance payments to certain amounts owed to a town for the assisted person's landlord's delinquent water, sewer, electricity or tax payments and relative to interest rates on security deposits.

HB 1126-FN, allowing the public utilities commission to appoint a receiver or to take over the operations of any utility with annual revenues below \$2,000,000 which fails to provide adequate service.

HB 1151, establishing a committee to study the economic feasibility of utilizing vacant space at the New Hampshire hospital for certain state offices.

HB 1183-FN, relative to the importation, propagation and possession of aquatic and wildlife species.

HB 1185-FN, authorizing the department of transportation to conduct surveys over certain roads, prescribe special rules for student driver training, exempt certain transportation operations from certain motor carrier statutes and relative to laying out class I and II highways.

HB 1287-L, enabling certain municipalities to issue tax lien redemption notes and relative to the transfer of tax liens.

HB 1298, allowing any municipal fire or police department, or independent emergency service, to record incoming and outgoing central dispatch and emergency telephone calls.

HB 1342-A, relative to the location and establishment of a state veterans' cemetery and making an appropriation therefor.

HB 1344, requiring the house environment and agriculture and the senate environment committees to review the laws relative to solid waste management.

HB 1357, establishing a committee to study the concept of in-home care as an alternative to institutionalized care.

HB 1430, relative to the disclosure of certain information and re-funds relating to musical performances.

HB 1451-FN, relative to the transportation of pupils living within a certain distance from the school to which they are assigned.

HB 1453-FN, establishing a study committee to review existing shellfish waters monitoring and closure procedures.

HB 1473-FN, establishing a New Hampshire scenic and cultural by-ways system.

HCR 21, urging the U.S. Congress to adopt uniform recycling product labeling standards based on standards developed by the Northeast Recycling Council.

Senator Currier moved that we recess to the Call of the Chair.

Adopted.

Recess.

Out of recess.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled House Bill sent down from the Senate and request a Committee of Conference:

HB 1026, relative to a companion bill to the supplemental budget.

SENATE ACCEDES TO HOUSE REQUEST FOR A COMMITTEE OF CONFERENCE

HB 1026, relative to a companion bill to the supplemental budget.

Senator Dupont moved to accede, to a Committee of Conference.

The Speaker on the part of the House of Representatives, has appointed as members of said Committee of Conference:

Representatives: C. Brown, P. LaMott, B. Marsh, C. Vaughn

Alternate: M. Schotanus

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: E. Dupont, R. D. Hough, C. Blaisdell.

Alternates: W. King, J. Delahunty.

Senator Cohen moved that we adjourn.

Adopted.

Adjournment.

April 21, 1992

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by the Rev. Bernand J. Campbell, Senate guest Chaplain.

O Blessed Lord, you said to the prophet Jeremiah that: "I will give you rulers who obey me, and they will rule with wisdom and understanding". To rule your people, the people of the State of New Hampshire is a sacred and divine responsibility. Aware of the sacredness of our office as Senators, we pause now to ask your blessing on our deliberations.

Let Us Pray. Eternal God, God of all light and life, upon whose moral law, the government of our people rests, as we begin this Nineteenth Session of the Senate, we turn to you in our need for balance and steadiness, because you are the unchanging one through all the changing scenes of life. Each hour, as it comes, is but a testimony, how fleeting, yet how secure, how certain the great whole. Our life is like an image on the waters, which, ever the same, though the waters ever flow. Ours is a life limited by fears and failures, uneven pledges and broken vows, feeble efforts and exploited goodness. We know what is right, but the will to champion it just is not within us at times. Yet, despite our limitations and weaknesses you still bless us with a State and Nation of stability, justice, and peace. We thank you for the livelihood we enjoy as citizens of this fair State of New Hampshire. We are a people who defend and promote the dignity of the person and the human rights of all people. We are a State and a Nation which builds with the hopes and dreams of the rising generations in mind. Hear our prayer for members of the Senate, and your people. Bless the Legislative, Judicial, and Executive Branches of our Government. Guide all those who hold positions of authority in the administration of the affairs of the State of New Hampshire. We pray that the members of the Senate will receive a wide measure of your wisdom and direction, so that through their service — our people may respond with a feeling of trust and may live and work in honor and harmony. Keep us all true to your commandments. May the actions of this Senate be always for the State's good. And may the record of the Senate's civic stewardship be blameless in your sight.

Amen

Senator Bass led the Pledge of Allegiance.

**INTRODUCTION OF GUESTS
NOTICE OF RECONSIDERATION**

Senator Nelson has served reconsideration on HB 1453-FN establishing a study committee to review existing shellfish waters monitoring and closure procedures.

Adopted.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 418, changing the title of juvenile services officers to juvenile probation-parole officers.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: W. McCain, V. Cook, V. Lovejoy, S. Nordgren.

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 428-FN, designating segments of the Connecticut River for the rivers management program and allowing existing hydroelectric facilities to maintain operations.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: H. Dickinson, M. Schotanus, C. Fitzgerald Buckley, S. Maviglio.

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 324, establishing a commission on the family and permitting Jewish Rabbis who are not citizens of the United States to solemnize marriages.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: E. A. Robinson, E. Gagnon, D. Woods, S. Nordgren.

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 375, allowing the division of parks and recreation to give rewards for information leading to the recovery of stolen division property.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: M. A. Lewis, H. Dickinson, J. Young, G. Janus.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendments to the following entitled House Bills sent down from the Senate:

HB 446-FN, relative to the board of registration in medicine and relative to the definition of psychologist.

HB 504-FN, requiring licensure of medical utilization review entities.

HB 1164, relative to seaplanes operating on bodies of water in New Hampshire.

HB 1166, changing the definition of "commercial boat" for the purposes of boat registration and granting a muffler exemption for antique and classic boats.

HB 1186-FN, assigning certain dams to the department of fish and game transferring funds to the dam maintenance fund and authorizing the department of fish and game to purchase the Morrill Pond dam and abutting property in the town of Canterbury.

HB 1222-FN-L, authorizing schools to modify authorized regional enrollment area (AREA) agreements.

HB 1315-L, amending RSA 154 relative to firewards and firefighters, exempting fire investigators from having law enforcement backgrounds, extending the committee studying fire laws, and extending the state historic flag committee and making an appropriation to such committee.

HB 1318-FN, repealing a provision of the business corporations act concerning application for reinstatement of charters, relative to the annual reports of beverage vendors and beverage vendor importers, and reinstating the charter of Rosetta Stone Associates, Inc.

HB 1339, requiring the division of human services to report certain obligors to consumer reporting agencies.

HB 1353, relative to civil recovery of damages for shoplifting.

HB 1448, relative to the loyalty oath for teachers.

HB 1471-FN, changing the penalties for theft of timber from another person's land or for altering the mark of any mill log belonging to another person.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled House Bill sent down from the Senate and request a Committee of Conference:

HB 1374, establishing a task force on women at risk for alcohol and other drug abuse during pregnancy.

**SENATE ACCEDES TO HOUSE REQUEST FOR
COMMITTEE OF CONFERENCE**

HB 1374, establishing a task force on women at risk for alcohol and other drug abuse during pregnancy.

Senator J. King moved to accede to House request for a Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: M. Holmes, E. Amidon, K. Foster, A. Ziegra.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: J. King, B. Hollingworth, E. Podles.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 321, repealing an exemption for town clerks relative to voter registration.

**SENATE NON CONCURS WITH HOUSE AMENDMENT
REQUEST COMMITTEE OF CONFERENCE**

SB 321, repealing an exemption for town clerks relative to voter registration.

Senator Bass moved non concurrence and request a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: C. Bass, J. Delahunty, J. St. Jean.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 327, establishing a committee to study the effects of substance abuse on health care costs of the state.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 327, establishing a committee to study the effects of substance abuse on health care costs of the state.

Senator J. King moved concurrence.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 355, requiring that deposits for the purchase or other disposition of manufactured housing to be held in escrow accounts and relative to disposition of tenant's security deposits transferred due to foreclosures.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 355, requiring that deposits for the purchase or other disposition of manufactured housing to be held in escrow accounts and relative to disposition of tenant's security deposits transferred due to foreclosures.

Senator Bass moved concurrence.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 370, relative to health insurance coverage for scalp hair prostheses.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 370, relative to health insurance coverage for scalp hair prostheses.

Senator Delahunty moved concurrence.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 452-FN, redistricting certain district courts.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 452-FN, redistricting certain district courts.

Senator Podles moved concurrence.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 453-FN, relative to involuntary commitment procedures.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 453-FN, relative to involuntary commitment procedures.

Senator J. King moved concurrence.

Adopted.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from the Senate and request a Committee of Conference:

HB 1129, designating the insurance department as the regulatory body for approval of motor vehicle warranty agreements.

**SENATE ACCEDES TO HOUSE REQUEST FOR
COMMITTEE OF CONFERENCE**

HB 1129, designating the insurance department as the regulatory body for approval of motor vehicle warranty agreements.

Senator Delahunty moved to accede to request for a Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: M. Hill, R. Krueger, G. Baker, B. Gage.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: R. Hough, M. Nelson, C. J. Shaheen.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from the Senate and request a Committee of Conference:

HB 1175, creating a committee to study medical liability insurance in New Hampshire.

SENATE ACCEDES TO HOUSE REQUEST FOR COMMITTEE OF CONFERENCE

HB 1175, creating a committee to study medical liability insurance in New Hampshire.

Senator Delahunty moved to accede to request for a Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: P. Drolet, R. Hill, R. Krueger, A. Syracuse.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: J. Delahunty, M. Nelson, C. Bass

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bills sent down from the Senate:

SB 385, to provide insurance coverage for court-ordered psychiatric and psychological service.

SB 474-FN, relative to regular sessions of a district court in towns within the district.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 343, relative to reconsideration of town meeting and school district meeting votes.

The speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: K. Wadsworth, K. Weyler, K. Metzger, M. Fuller Clark.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 410, relative to AIDS.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: R. Foster, M. Holmes, A. Ziegra, K. Foster.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendments to the following entitled House Bills sent down from the Senate:

HB 1142, permitting the bank commissioner to delegate duties and responsibilities.

HB 1172, increasing the amount of the homestead right.

HB 1191, prohibiting insurance companies from nonrenewing a homeowner's policy solely on the basis that a claim has been filed.

HB 1361, establishing a committee to study state motor vehicle fleet management.

COMMITTEE REPORTS

HB 1136, an act relative to regulation of small loans. Banks committee. Ought to Pass with Amendment. Senator Fraser for the committee.

5860L

Amendment to HB 1136

Amend the title of the bill by replacing it with the following:

AN ACT

relative to the regulation of small loans
and second mortgage home loans.

Amend the bill by replacing section 5 with the following:

5 New Paragraph; Definition; Loan Production Office. Amend RSA 384-B:1 by inserting after paragraph XII the following new paragraph:

XIII. "Loan production office" means any place of business located within this state at which a bank chartered by this state or any other state engages in loan origination, loan solicitation, and/or loan servicing activities. These terms do not include acceptance of deposits or any other usual activities of banking. A loan production office of an out-of-state chartered bank is not a branch office within the meaning of the term "branch office" as defined in paragraph III of this section.

6 New Sections; Loan Production Offices; Rulemaking. Amend RSA 384-B by inserting after section 2 the following new sections:

384-B:2-a Loan Production Offices. A bank chartered by this or any other state may engage in the business of loan origination, loan solicitation or loan servicing activities at a loan production office in this state.

384-B:2-b Rulemaking. Pursuant to RSA 541-A, the bank commissioner may adopt such rules as he deems necessary for the administration and enforcement of this chapter. Such rules shall be consistent with the provisions of this chapter.

7 Exemptions; Second Mortgage Home Loans. RSA 398-A:10 is repealed and reenacted to read as follows:

398-A:10 Exemptions. The provisions of this chapter shall not apply to:

I. Any bank, trust company, savings and loan association, profit sharing and pension trust, credit union, thrift company, insurance company, or receivership, which may be chartered by this state or any other state or by any agency of the United States. The subsidiaries and service corporations of the aforesaid entities shall not be exempt from the provisions of this chapter.

II. Any natural person making not more than 4 second mortgage home loans within any period of 12 consecutive months with his own funds and for his own investment without an intent to resell such mortgage loans.

III. Any natural person who, as seller, receives one or more second mortgage home loans or deeds of trust on real estate as security for a purchase money obligation.

IV. Any person licensed to practice law in this state, not actively and principally engaged in the business of negotiating second mortgage home loans secured by real property, when such person renders services in the course of his practice as an attorney at law.

V. Any corporation or its affiliate which makes second mortgage home loans exclusively for the benefit of its employees.

VI. Bona fide non-profit corporations granting second mortgage home loans to promote home ownership for the economically disadvantaged.

VII. Persons acting as fiduciaries for any employee pension benefit plan qualified under the Internal Revenue Code who make second mortgage home loans solely to plan participants from plan assets.

VIII. Employees of licensees, or independent agents under exclusive contract with a licensee, unless otherwise required to be licensed under the provisions of this chapter.

8 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill changes the method for computation of interest on small loans. The bill establishes requirements for responding to consumer inquiries regarding licensees engaged in the business of making small loans. The bill repeals a reporting requirement for licensees doing other business in the same office and allows a licensee to file a composite report for a group of affiliated offices.

The bill authorizes the operation of loan production offices in this state. It grants the bank commissioner rulemaking authority to enforce the provisions of RSA 384-B.

The bill also establishes certain exemptions from the laws and rules governing second mortgage home loans.

SENATOR FRASER: Mr. President, HB 1136 was recommitted to the Banks committee to allow an amendment to be added that defines a loan production office. It also allows a Bank Commission to adopt rules for loan production officers to be established in New Hampshire by out of state chartered banks. Currently, federally chartered banks can open loan offices, this merely allows state chartered banks to do the same. The amendment also deals with certain exemptions from second mortgage home loans. These provisions were taken from the exemptions for first mortgage loans and simply put, are now being applied to state chartered banks offering second mortgages. Mr. President, we urge adoption of HB 1136 as amended.

Committee amendment adopted.

Ordered to third reading.

Recess.

Senator Delahunty in the Chair.

HB 1138, an act relative to the board of trust company incorporation's consideration of petitions for incorporation of savings banks. Banks committee. Ought to Pass with Amendment. Senator Fraser for the committee.

5881L

Amendment to HB 1138

Amend the bill by replacing all after the enacting clause with the following:

1 Consideration of Petition for Incorporation of Savings Bank. Amend the introductory paragraph of RSA 386-A:6 to read as follows:

Before acting on any petition, the board shall consider such evidence as may be presented by the petitioners and all other interested persons, firms and corporations, including members of the general public and shall keep a permanent record of such evidence. The petitioners shall submit to the board full information as to the identity and background of each person, firm or corporation who has subscribed to the initial capital of the proposed bank, **including information on whether such person, firm or corporation has previously been involved financially in a bank which has failed.** In making its decision on each petition, the board shall not take favorable action unless it determines that:

2 Professional Character of Applicant. RSA 386-A:6, IV is repealed and reenacted to read as follows:

IV. Each applicant demonstrates sufficient evidence of good professional character and reliability to satisfy the board that the applicant shall faithfully and conscientiously avoid professional misconduct; and

3 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill requires petitioners for incorporation of a savings bank to submit to the board of trust company incorporation full information as to the identity and background of each person, firm or corporation who has subscribed to the initial capital of the proposed bank, including information on whether such person, firm or corporation

has previously been involved financially in a bank which has failed. The bill also requires the board to scrutinize the professional character and reliability of each applicant.

SENATOR FRASER: Mr. President, for your information, it is my understanding that Senator Pressly has taken a fall and that she is in the nurse's office right now. HB 1138 just sets up a criteria for individuals in New Hampshire who want to become chartered to start a state chartered bank. It is a bill that was requested by the Banking Department and it was amended to include some language that appears on page seven, which says that, "including information on whether such person, firm or corporation has previously been involved financially in a bank which has failed". This is strictly a procedural bill, Mr. President, and we urge its adoption.

Committee amendment adopted.

Ordered to third reading.

HB 1156, an act changing the annual rate of interest on judgments and business transactions. Banks committee. Inexpedient to Legislate. Senator McLane for the committee.

SENATOR MCLANE: This bill was put in at the request of the Department of Transportation. They are now paying eminent domain judgements at 10 percent, the 10 percent rate has been in effect for 10 years, since 1981. There was a great deal of discussion whether that rate should be changed. There was thought for awhile that we ought to put it in on the treasury bill rate. The House committee had taken the treasury bill rate plus two percent, and finally, after a great deal of discussion, we decided that it was in the interest of all concerned to have that rate at a standard rate, which it is now, and that over the years it would even out. So the bill is inexpedient to legislate as it came over to us from the House.

Committee report of inexpedient to legislate is adopted.

HB 1452-FN-L, an act allowing the county treasurer to use call bonds and lines of credit as financial management tools. Banks committee. Ought to Pass with Amendment. Senator Fraser for the committee.

5910L

Amendment to HB 1452-FN-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT

establishing a committee to study methods for increasing the borrowing authority of the county treasurer.

Amend the bill by replacing all after the enacting clause with the following:

1 Study Committee Established. There is hereby established a committee to study methods for increasing the borrowing authority of the county treasurer.

2 Membership.

I. The committee shall consist of the following members:

(a) One member of the senate, appointed by the president of the senate.

(b) One member of the house of representatives, appointed by the speaker of the house.

(c) One county treasurer, appointed by the New Hampshire Association of Counties.

(d) One member of the New Hampshire Bankers Association, appointed by the association.

(e) One member of the New Hampshire Financial Services Association, appointed by the association.

(f) The executive director of the New Hampshire municipal bond bank.

(g) The state treasurer, or designee.

II. The committee shall elect a chairman from among its members.

3 Study and Report.

I. On or before November 1, 1992, the committee shall report to the president of the senate and the speaker of the house, and shall recommend such legislation as may be necessary for the 1993 session of the general court concerning methods for increasing the borrowing authority of the county treasurer.

II. The committee shall study:

(a) The use by the county treasurer of call bonds and lines of credit.

(b) How municipalities and counties may make annual loan payments.

(c) The authority of cities and towns to establish lines of credit for tax anticipation notes.

III. The committee shall have full power and authority to require from the several departments, agencies, and officials of the state such information and assistance as it deems necessary.

4 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill establishes a committee to study methods for increasing the borrowing authority of the county treasurer. The committee must make its report, together with any proposed legislation, on or before November 1, 1992.

SENATOR FRASER: Mr. President, HB 1452 as it came over from the House would have done some technical things so far as the payment of interest and principal on bonds. The bill was particularly interesting to the Rockingham County Treasurer who was the one who brought the bill to the attention of the General Court. It was in the view of the Senate Banks committee that this was kind of a pay me now or pay me later type of thing, and rather than pass some legislation that would probably put a tremendous financial burden on people that in 10 to 20 years out, we thought that the bill should be studied further and we have recommended by amendment 5910 that HB 1452 be converted to a study committee. We urge adoption of the bill as amended.

Committee amendment adopted.

Ordered to third reading.

HB 469-A, an act relative to improvements on route 106 and making an appropriation therefor. Capital Budget committee. Ought to Pass. Senator Fraser for the committee.

SENATOR FRASER: Mr. President, HB 469A-A was a bill that was brought to the Capital Budget committee by Senator Dupont and it has to do with a \$10,000,000 bonding issue in order to commence work on route 106 between 393 and Laconia. It is a very important piece of legislation. The thrust of the testimony evolved around the fact that there is a tremendous problem so far as traffic is concerned about the new Loudon raceway. This is really only part of the whole issue. There has already been over \$600,000 spent in consulting fees. This \$10,000,000 will allow them to commence construction and to acquire rights-of-way and the like. Ultimately, this project will probably cost at today's market somewhere around \$50,000,000, but it is a tremendously important piece of legislation, and we would urge it's adoption.

Adopted.

Ordered to third reading.

HB 1238-FN, an act authorizing the reconstruction of the Route I-89 exits 18 and 20 interchanges in Lebanon. Capital Budget committee. Ought to Pass. Senator Fraser for the committee.

Recess.

Out of recess.

SENATOR FRASER: HB 1238 authorizes the reconstruction of exits #8, 18 and 20 on I-89. Clearly the testimony that we heard in a rather lengthy hearing had to do with the safety factors of both of these exits. One of the things that was brought home to us is the fact that, as people are trying to gain access to Hanover to the Hitchcock Hospital, there are times when the peak hours, there might be as much as one mile of traffic up on I-89 trying to get onto exit 18. So the committee was unanimous in its adoption that this bill should be passed. We urge the Senate's adoption of the committee report of ought to pass.

Adopted.

Ordered to third reading.

HB 1214, an act establishing a study committee to assess present enforcement of certain state environmental laws by environmental regulatory agencies of the state of New Hampshire. Environment committee. Inexpedient to Legislate. Senator Russman for the committee.

SENATOR RUSSMAN: The committee felt that this was a study committee that was unnecessary at this time. There was some federal things going on that we thought that we should wait and take a look at, and so we ask that the Senate vote inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

HB 1252-FN, an act creating exceptions from and reciprocity for state water laboratory certification, clarifying the use of fees for certifying state water laboratories, and changing the special account into a special continuously appropriated revolving fund account. Environment committee. Ought to Pass. Senator Russman for the committee.

SENATOR RUSSMAN: Senator W. King was going to report this bill out, but I will fill in for him. This places an additional exception for certification of water testing laboratories. It authorizes the Department of Environmental Services to enter into a reciprocal agreements with other states regarding the certifications that they give. It also would change the DES account dealing with certification from a special account to a revolving account. I don't believe

that there were any amendments offered to the bill, and I think that we are requesting ought to pass as it came to us from the House.

Adopted.

Ordered to third reading.

HB 1343-FN, an act establishing a committee to review wetlands projects and related issues. Environment committee. Inexpedient to Legislate. Senator Russman for the committee.

SENATOR RUSSMAN: This was an additional study committee that the Environment committee felt was unnecessary. It started off as part of a different bill and ended up as a study committee and the Environment committee just thought that it was unnecessary.

Committee report of inexpedient to legislate is adopted.

HB 1396-FN, an act authorizing municipalities to incur debt in the form of bonds guaranteed by the state of New Hampshire to assist municipalities, towns, cities, counties or districts to close landfills and to clean up hazardous waste sites. Environment committee. Ought to Pass. Senator Hollingworth for the committee.

SENATOR HOLLINGWORTH: The committee would like to lay this on the table at this time if we can, we have some language that we have to cleanup with the bill. Do we need to make the motion for ought to pass and report it out or?

Senator Russman moved to have **HB 1396-FN** an act authorizing municipalities to incur debt in the form of bonds guaranteed by the state of New Hampshire to assist municipalities, towns, cities, counties or districts to close landfills and to clean up hazardous waste sites laid on the table.

Adopted.

LAID ON TABLE

HB 1396-FN an act authorizing municipalities to incur debt in the form of bonds guaranteed by the state of New Hampshire to assist municipalities, towns, cities, counties or districts to close landfills and to clean up hazardous waste sites.

HB 1396-FN is laid on the table.

HB 1436, an act relative to septic setbacks and terrain alteration permits. Environment committee. Ought to Pass with Amendment. Senator Russman for the committee.

5827L

Amendment to HB 1436

Amend the bill by replacing all after the enacting clause with the following:

1 Effective Date in Contingency Changed. Amend 1991, 303:8 to read as follows:

303:8 Contingency. Sections 1, **excluding RSA 483-B:9, V(b) and (c)**, 2, and 5 of this act shall take effect only after the general court has approved funding of sections 1, 2, and 5 of this act after consideration of the implementation plan required under section 7 of this act, except that any gifts, grants, and donations solicited or received by the department of environmental services under RSA 483-B:15 may be expended only for the purpose of preparation of the report required under section 7 of this act. The commissioner shall not activate the rulemaking process pursuant to RSA 483-B:17 until the general court has approved funding of sections 1, **excluding RSA 483-B:9, V(b) and (c)**, 2, and 5 of this act after consideration of the implementation plan required under section 7 of this act.

2 New Paragraph; Effective Date for Septic Setbacks and Terrain Alteration Permits Changed to January 1, 1993. Amend 1991, 303:10, by inserting after paragraph I the following new paragraph:

I-a. Notwithstanding paragraph I of this section, RSA 483-B:9, V(b) and (c) as inserted by section 1 of this act shall take effect January 1, 1993.

3 Terrain Alteration. Amend RSA 485-A:17, II to read as follows:

II. The division shall charge a fee for each review of plans, including project inspections, required under this section. The fee shall be based on the extent of contiguous area to be disturbed. **Except for RSA 483-B:9**, the fee for plans encompassing an area of at least 100,000 square feet but less than 200,000 square feet shall be \$100. **For the purposes of RSA 483-B:9, the fee for plans encompassing an area of at least 50,000 square feet but less than 200,000 square feet shall be \$100.** An additional fee of \$100 shall be assessed for each additional area of up to 100,000 square feet to be disturbed. No permit shall be issued by the division until the fee required by this paragraph is paid. All fees required under this paragraph shall be paid when plans are submitted for review and shall be deposited in the treasury as unrestricted funds.

4 Effective Date. This act shall take effect January 1, 1993.

AMENDED ANALYSIS

This bill amends the effective date of sections of the shoreland protection act relative to septic system setbacks and terrain alteration from contingent upon funding of the act to January 1, 1993.

This bill also changes the minimum square footage for which a terrain alteration permit is required involving shoreland projects.

SENATOR RUSSMAN: In the absence of Senator W. King who was going to report this out, I would tell you that the bill as amended changed the effective date for certain parts of the shoreline protection act. It changes the minimum square footage for terrain alteration permit for fee purposes downward, I believe it is from 100 to 50,000', if I am not mistaken. The minimum square foot is changed in triggering the need for a permit and fee, agricultural uses are exempt from the process.

Committee amendment adopted.

Ordered to third reading.

HB 404-FN, an act requiring the introduction of legislation in the 1993 session relative to the joint board of engineers, architects, land surveyors, foresters and natural scientists. Executive Departments committee. Inexpedient to Legislate. Senator Colantuono for the committee.

SENATOR COLANTUONO: This bill originally started as a bill to add wetland scientists and natural scientists to regulation under the joint board. The House turned it into a bill simply to require House ED & A to study the question and come up with a bill next session. In that posture, our committee felt that there was no need to pass the bill because the House ED & A committee can do whatever they want without a session law like this, so we simply think that it is a waste of time to pass the bill, and we recommend inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

HB 527-FN-A, an act licensing speech-language pathologists and making an appropriation therefor. Executive Departments committee. Ought to Pass with Amendment. Senator Colantuono for the committee.

5852L

Amendment to HB 527-FN-A

Amend RSA 326-F:5, I as inserted by section 1 of the bill by replacing it with the following:

326-F:5 Licensure.

I. To be eligible for licensure by the board as a speech-language pathologist, the applicant shall:

(a) Make application to the board, upon a form prescribed by the board; and

(b) Pay to the board the appropriate application fee; and

(c) Possess at least a master's degree or equivalent in speech-language pathology from an educational institution approved by the board which consists of course work approved by the board and delineated in rules adopted by the board pursuant to 541-A; and

(d) Complete supervised clinical practicum experience at an educational institution or its cooperating programs, the content of which shall be approved by the board and delineated in rules adopted by the board pursuant to RSA 541-A; and

(e) Complete a postgraduate professional experience as approved by the board and described in rules adopted by the board pursuant to 541-A; and

(f) Pass an examination in speech-language pathology approved by the board; and

(g) Demonstrates sufficient evidence of good professional character and reliability to satisfy the board that he shall faithfully and conscientiously avoid professional misconduct and otherwise adhere to the requirements of this chapter and the board's rules.

(h) In cases of license renewal after a period of nonrenewal of less than 5 years, pay to the board a restoration fee consisting of the current renewal fee plus any late fee set by rules adopted by the board pursuant to RSA 541-A and submit such evidence of continued professional competence and eligibility for licensure as the board may require.

Amend RSA 326-F:6 as inserted by section 1 of the bill by replacing it with the following:

326-F:6 Suspension or Revocation of License.

I. The board may revoke, suspend, caution, or impose probationary conditions upon any licensee under this chapter, after notice and the opportunity for a hearing, when the licensee is found by the board to have engaged in unprofessional conduct, which shall include:

(a) Behavior in the course of professional activity which has endangered or is likely to endanger the public health, safety, or welfare.

(b) The use of fraud, misrepresentation, or concealment of material facts in applying for any license or privilege from the board or any other professional licensing or credentialing organization, health care provider, or employer.

(c) Gross or repeated negligence in practicing speech pathology or any speciality thereof.

(d) Unprofessional, dishonest or unethical conduct, including, but not limited to, conduct which violates the American Speech-Language-Hearing Association's code of ethics.

(e) Violation of any provisions of this chapter or rules adopted by the board pursuant to RSA 541-A.

(f) Conviction of a felony by a court of competent jurisdiction, or conviction of any crime if the board finds the guilty conduct to have a direct bearing on the ability to serve the public as a speech language pathologist.

(g) Unethical conduct as defined by the board with reference to the American Speech-Language-Hearing Association's code of ethics.

II. A licensee or applicant aggrieved by a final decision of the board under this section may appeal in accordance with RSA 541.

Amend the introductory paragraph of RSA 326-F:7 as inserted by section 1 of the bill by replacing it with the following:

326-F:7 Reinstatement after Suspension. A speech pathologist seeking license reinstatement after suspension of a license in this state shall submit the following to the board:

Amend RSA 326-F:8 as inserted by section 1 of the bill by inserting after paragraph IV the following new paragraph:

V. Any person who fails to renew his license by the end of the 30-day grace period as provided in paragraph II may have his license reinstated as long as he:

(a) Submits an application for reinstatement to the board within 5 years after the expiration date of the license; and

(b) Meets the requirements established by the board as conditions for license renewal.

Amend the introductory paragraph of RSA 326-F:10, II as inserted by section 1 of the bill by replacing it with the following:

II. The board may waive the education, practicum, and professional experience requirements for applicants who:

Amend RSA 326-F:11, I as inserted by section 1 of the bill by replacing it with the following:

I. The purpose of a provisional license is to permit an individual to practice speech-language pathology while completing the post-graduate professional experience as required by this chapter. Any person holding a provisional license shall be authorized to practice speech-language pathology provided the person is working under the supervision of a person fully licensed by this state in accordance with this chapter. A provisional license for a clinical fellowship year is limited to one year for a full-time employee and 3 years for part-time employees. A provisional license shall expire automatically as a matter of law on the date stated thereon by the board.

Amend RSA 326-F:12 as inserted by section 1 of the bill by replacing it with the following:

326-F:12 Interim License.

I. A temporary license may be granted for 120 days if a person

has moved to this state from another state and holds a license with comparable requirements. If a person has the national Certification of Clinical Competence status, a temporary license may be granted to allow the person to work while the administrative work is being completed, but application for licensure shall have occurred prior to beginning employment.

II. A temporary license for Clinical Fellowship Year is limited to 3 years for part-time employees. Supervision shall be conducted by a person licensed under this chapter.

III. A temporary license issued under this section shall expire automatically as a matter of law on the date stated thereon by the board.

Amend RSA 326-F:14, V as inserted by section 1 of this act by replacing it with the following:

V. Procedures for investigations and hearings.

Amend RSA 326-F as inserted by section 1 of the bill by inserting after RSA 326-F:14 the following and renumbering RSA 326-F:15 to read as RSA 326-F:19:

326-F:15 Immunity from Civil Action. No civil action shall be maintained against the board or any member thereof or its agents or employees. No civil action shall be maintained against any organization or its members or against any other person for or by reasons of any good faith statement, report, communication, or testimony to the board or determination by the board in relation to proceedings under this chapter.

326-F:16 Investigatory Powers of the Board; Complaints.

I. The board may investigate possible misconduct by licensees and any other matters governed by the provisions of this chapter. Investigations may be conducted with or without the issuance of a board order setting forth the general scope of the investigation. Board investigations and any information obtained by the board pursuant to such investigations shall be exempt from the public disclosure provisions of RSA 91-A, unless such information subsequently becomes the subject of a public disciplinary hearing. However, the board may disclose information obtained in an investigation to law enforcement or health licensing agencies in this state or any other jurisdiction, or in accordance with specific statutory requirements or court orders.

II. The board may appoint legal counsel, speech-language pathology experts, hearing officers or other investigators to assist with any investigation and with adjudicatory hearings.

III. The board may commence a formal or informal investigation, or an adjudicative hearing, concerning allegations of misconduct and other matters within the scope of this chapter on its own motion or upon written complaint of any person which charges that

a person licensed by the board has committed unprofessional conduct under RSA 326-F:6, I, whenever it has a reasonable basis for doing so. The type of procedure chosen shall be a matter reserved to the discretion of the board. Investigations may be conducted on an ex parte basis.

IV.(a) The board may administer oaths or affirmations, preserve testimony, and issue subpoenas for witnesses and for documents during any formal investigation or adjudicatory hearing. The board may also subpoena client records, as provided in paragraph V, during formal investigations.

(b) The board shall serve any subpoena not covered by paragraph V in accordance with the procedures and fee schedules established by the superior court, except that:

(1) Any person licensed by the board shall not be entitled to a witness fee or mileage expenses for travel within the state.

(2) The board shall not be required to tender witness fees and mileage expenses in advance if the subpoena is annotated "fees guaranteed by the New Hampshire board of speech-language pathology."

(3) The respondent shall be allowed at least 48 hours' to comply with a subpoena issued under this chapter.

V. The board may at any time subpoena client records from its licensees and client records from hospitals and other health care providers or facilities licensed by or certified in this state. Such subpoenas shall be served by certified mail or by personal delivery to the address shown on the licensee's current license, and no witness or other fee shall be required. A minimum of 15 days' advance notice shall be allowed for complying with a subpoena duces tecum issued under this chapter.

VI. All licensees and any persons applying for licensure or any other privilege granted by the board shall have the duty to keep the board informed of their current business and residence addresses. A licensee shall receive adequate notice of any hearing or other action taken under this chapter if notice is mailed in a timely fashion to the most recent home or business address furnished to the board by the licensee.

VII. Any complaint of licensee misconduct shall be in writing and shall be treated as a petition for the commencement of a disciplinary hearing. The board shall fairly investigate all complaints to the extent and in the manner warranted by the allegations. Any complaint which fails to state a cause of action may be summarily denied in whole or in part. Some or all of the allegations in a complaint may be consolidated with another complaint or with issues which the board wishes to investigate or hear on its own motion. If an investigation of a complaint results in an offer of settlement by the licensee,

the board may settle the allegations against the licensee without the consent of a complainant, provided that material facts are not in dispute and the complainant is given an opportunity to comment upon the terms of the proposed settlement.

VIII. At the commencement of an adjudicatory proceeding, or at any time during a formal or informal investigation, and without issuing a subpoena, the board may mail a statement of the issues being investigated or heard to any licensee or other person who is a proper subject of inquiry and require the licensee or other person to provide a detailed and good faith written response to the allegations identified by the board. The licensee or other person shall provide complete copies of his office records concerning any patient whose treatment is relevant to the matters at issue. The licensee shall respond to such request within a reasonable time period of not less than 15 days, as the board may specify in its written request.

326-F:17 Hearings; Decisions; and Appeals.

I. Any adjudicatory hearing shall be an open public proceeding. Any member of the board may preside at such a hearing and may issue oaths or affirmations to witnesses.

II. The board shall furnish the licensee or any other respondent at least 15 days' written notice of the date, time and place of a hearing, except as otherwise provided in this chapter. Such notice shall include an itemization of the issues to be heard, and, in the case of a disciplinary hearing, a statement as to whether the action has been initiated by a written complaint or upon the board's own motion, or both. If a written complaint is involved, the complainant shall also receive a copy of the hearing notice and shall be provided with a reasonable opportunity to intervene as a party.

III. Any person appearing at a board hearing or investigation may be represented by legal counsel, but the board shall have no obligation or authority to appoint or provide an attorney to any person appearing at a board hearing or investigation.

IV. The board may at any time dispose of issues or allegations at an adjudicatory hearing, or an investigation, by default, settlement agreement, or consent order, by issuing an order of dismissal for failing to state a proper basis for disciplinary action or by summary judgment order based upon undisputed material facts. In disciplinary hearings, the board may hold prehearing conferences which shall be exempt from the provisions of RSA 91-A, but all final disciplinary actions, including those which occur without holding a public hearing, shall be available to the public.

V. Adjudicatory decisions and final disciplinary actions of the board shall be made by a majority of the board members participating in the decision. Such decisions shall not be made public until they

have been reduced to writing, signed by a representative of the board, and served upon the parties.

VI. Decisions of the board may be appealed to the supreme court pursuant to RSA 541. The court shall not stay any disciplinary sanction imposed by the board pending appeal, if the board has determined that the sanction is required for the public safety and welfare. Any person whose license has been revoked shall comply with the licensure requirements of RSA 326-F:5 relative to license reinstatement.

326-F:18 Temporary Suspension Where Imminent Threat. In cases involving imminent danger to life or health, the board may order suspension of a license or privilege granted under this chapter pending hearing for a period of no more than 60 days. In such cases, the basis for the board's finding of imminent danger to life or health shall be reduced to writing and combined with a hearing notice which complies with RSA 326-F:16, II and RSA 541-A:16, III. Notwithstanding the requirements of RSA 541-A:15, III, the board's hearing may commence as much as 30 days after the date of the order suspending the license. If the board does not commence the hearing within 30 days, the suspension order shall be automatically vacated, but a licensee shall be allowed additional time to prepare for or to complete a hearing under this paragraph only by agreeing to a further suspension commensurate with the additional time extended.

Amend RSA 326-F as inserted by section 1 of the bill by deleting RSA 326-F:9 and renumbering RSA 326-F:10-19 to read as RSA 326-F:9-18, respectively.

SENATOR COLANTUNO: This bill sets up a Licensing Board for the first time for speech and language pathologists. It follows the basic format of all of our other licensing bills. It was thoroughly reviewed by the Attorney General's Office. The amendment on page nine of the calendar reflects the changes requested by the Attorney General's Office, to make it consistent with other laws. The committee agreed with the House position, that it is time that these persons should be licensed because they perform a vital function and we need to guarantee that the services that they provide are done in a professional and competent manner.

SENATOR HUMPHREY: Senator Colantuono, the provision of this bill which immediately catches my eye is on page five of the original bill, which is part of the bill not touched by the amendment in the calendar, as I understand it, namely 326-F:3, I, "no person shall practice speech language pathology or represent himself as a speech language pathologist in this state unless such person is licensed according to the provisions of this chapter". My question, Senator, is

why is it so important that this group of practitioners be licensed and that all other persons who would practice likewise must be licensed?

SENATOR COLANTUONO: Well, this gets into the general philosophical discussion about licensure and I guess the practical answer to that is that the bill received no opposition whatsoever from anybody at the public hearing or throughout the process.

SENATOR HUMPHREY: Well, Mr. President, as a member of the Executive committee for two years, I have been impressed at the steady stream of groups that come before the committee and before the General Court seeking licensure; and up to a point, that is fine. I think for a group of professionals to agree to a certain set of minimum standards and to seek the information of the state and the enforcement powers of the state, in holding people to those standards is a fine thing, but for heavens sake, why do we have to license every group that seeks licensure and exclude from practice those who don't care to seek licensure? I don't think that this is a practice that requires licensure. I think that licensure is a fine thing, but why must we exclude others who don't choose to be licensed from this particular practice? Yes, we want to license physicians for sure, we want to license surgeons, yes, we want to license lawyers, and in fact, we want lawyers to be bonded, a special category. Do we have to license every last group to the point where we exclude those who don't seek licensure? I mean, thus goes freedom, degree by degree, day by day. We don't vote once a year on whether the people of New Hampshire will be more free or less free, we do that in every vote that we cast every day that we meet. Here is another case where we are slicing off another piece of freedom, and it is unnecessary. I intend to make a motion to table this bill. I think that it is supportable, in all respects, except that one all important aspect and I suggest that that ought to be removed from the bill. I don't want to preclude the debate, but at the appropriate moment, I intend to offer a tabling motion.

Senator Heath moved to have HB 527-FN-A an act licensing speech-language pathologists and making an appropriation therefor laid on the table.

Adopted.

LAID ON THE TABLE

HB 527-FN-A an act licensing speech-language pathologists and making an appropriation therefor.

HB 527-FN-A is laid on the table.

HB 1211, an act permitting public employees to file an unfair labor practice complaint after a certain time without exhausting administrative remedies. Executive Departments committee. Ought to Pass with Amendment. Senator Fraser for the committee.

5869L

Amendment to HB 1211

Amend the title of the bill by replacing it with the following:

AN ACT

permitting public employees to file an unfair labor
practice complaint without exhausting
other administrative remedies.

Amend RSA 273-A:6, I as inserted by section 1 of the bill by replacing it with the following:

I. The board shall have primary jurisdiction of all violations of RSA 273-A:5[, but no complaint may be filed with the board for violation of RSA 273-A:5, I(c) or (d) either until the complainant has exhausted the administrative remedies provided by statutes other than this chapter].

AMENDED ANALYSIS

This bill permits a public employee to file an unfair labor practice complaint without exhausting other administrative remedies.

SENATOR FRASER: Mr. President, HB 1211 as amended by the committee would give the Public Employees Labor Relations Board immediate jurisdiction over all alleged unfair labor practices listed in 273-A, the state's Public Employees Labor Relations Law. That is all that 1211 does. It will not affect contract agreement procedures. There has been in the past, some confusion about this bill, by those who were afraid that it would allow employees to bypass agreement procedures in their contracts; this is not so, this bill will do nothing more than what I suggested. None of the current procedures in 273-A, including the Public Employees Labor Relations Board requirement that the grievance procedure be exhausted first, will be changed. We urge the adoption of this bill as amended.

SENATOR HEATH: Senator Fraser, can we take your remarks on this bill as legislative intent, is that fine with you?

SENATOR FRASER: As legislative intent?

SENATOR HEATH: Yes, as legislative intent. So that if it gets into a court, your remarks would represent what the bill is?

SENATOR FRASER: Yes.

SENATOR COLANTUONO: Senator Fraser, could you give us an example of the type of activity that this bill would implicate and how it would work?

SENATOR FRASER: Yes. Well, for instance, the unfair labor practices, those that are prohibited in 273-A:5. I see would be, "to discriminate in the hiring or tenure or the terms and conditions of employment of it's employees for the purpose of encouraging or discouraging membership of any employee organization". The other one that would be addressed in the amended version of this bill would be item 'D', for discharge and otherwise discriminate against any employee because he has filed a complaint, affidavit or petition or given information or testimony". Those are two issues that are still included in this bill.

Committee amendment adopted.

Ordered to third reading.

HB 1399-FN, an act changing the name of the board of examiners of psychologists to the board of examiners of psychology and mental health practice, expanding such board, and certifying mental health counselors. Executive Departments committee. Ought to Pass with Amendment. Senator Currier for the committee.

5894L

Amendment to HB 1399-FN

Amend the bill by replacing section 4 with the following:

4 Board. Amend RSA 330-A:3 to read as follows:

330-A:3 Board. There shall be a board of examiners of [psychologists] **psychology and mental health practice** consisting of [7] **9** members: [2] **3** certified psychologists; [one certified associate psychologist;] one teacher of psychology who has received a doctoral degree in psychology, is a member of the faculty of an accredited college or university in this state, and is actively engaged in the teaching of psychology; one certified pastoral counselor; one certified clinical social worker; **one certified mental health counselor; one certified marriage and family therapist;** and one public member; each to be appointed by the governor, with the approval of the council, to a term of 3 years. [Members shall be appointed to staggered terms. In order to effect staggered terms the public member and the associate psychologist shall receive initial appointments of one year; the certified pastoral counselor and certified psychologist shall receive initial appointments of 2 years, and one certified psychologist, the doctoral level teacher of psychology and the certified

clinical social worker members shall receive initial 3-year appointments.] **At least one of the board members representing certified pastoral counselors, certified social workers, certified mental health counselors, or certified marriage and family therapists shall have a doctoral degree in the applicable field of practice.** The board shall elect a chairman each year with no person serving consecutive terms as chairman. No member shall be appointed to more than 2 consecutive terms. Only board members provided for in this section shall have the authority to vote in board determinations.

Amend RSA 330-A:8, XVI and XVII as inserted by section 6 of the bill by replacing them with the following:

XVI. Requirements to be met by certificate holders relative to the disclosure of information to patients and the general public concerning the nature of mental health care and the responsibilities of mental health practitioners to clients; and

XVII. How certificate holders shall provide evidence of good professional character and reliability to satisfy the board that he shall faithfully and conscientiously avoid professional misconduct and otherwise adhere to the requirements of this chapter and the board's rules.

Amend section 7 of the bill by replacing the amending language and the section heading of RSA 330-A:15-a with the following:

7 New Sections; Investigations and Complaints; Hearings. Amend RSA 330-A by inserting after section 15 the following new sections:
330-A:15-a Investigations and Complaints.

Amend RSA 330-A:15-a, VIII as inserted by section 7 of the bill by replacing it with the following:

VIII. Any person may file a written complaint with the board which charges that a person certified by the board has committed misconduct. The board may dismiss complaints when the undisputed allegations do not warrant disciplinary actions and may settle complaints informally with the consent of the certificate holder. Some or all of the allegations in a complaint may be consolidated with another complaint or with issues which the board wishes to investigate or hear on its own motion. If an investigation of a complaint results in an offer of settlement by the certificate holder, the board may settle the allegations against the certificate holder without the consent of a complainant, provided that material facts are not in dispute and the complainant is given an opportunity to comment upon the terms of the proposed settlement.

Amend RSA 330-A:15-b, I as inserted by section 7 of the bill by replacing it with the following:

I. Any complaint not dismissed or settled informally shall be heard by the board. Such hearing shall be an open public hearing.

Any member of the board shall have the authority to preside at such a hearing and to issue oaths or affirmations to witnesses.

Amend RSA 330-A:15-b, III as inserted by section 7 of the bill by replacing it with the following:

III. The board may, before or after the commencement of an adjudicatory hearing, dispose of disciplinary or certification allegations arising under this chapter by order of dismissal, settlement, default, consent order or summary judgment order. In disciplinary hearings, the board may hold prehearing conferences which shall be exempt from the provisions of RSA 91-A, but all final disciplinary actions, including those which occur without holding a public hearing, shall be publicly released at the time they are served upon the parties.

Amend RSA 330-A:16-e, I as inserted by section 9 of the bill by replacing it with the following:

I. Has a master's degree or a doctorate degree in counseling from a regionally accredited institution whose graduate program meets the guidelines set forth by the National Academy of Certified Clinical Mental Health Counselors or the National Board for Certified Counselors, Inc. or has a master's degree or a doctorate degree with a concentration in the field of counseling or psychology from a regionally accredited institution. After July 1, 1995, the master's degree shall include at least a 2-year master's degree program with a minimum of 60 hours of graduate credit.

Amend RSA 330-A:18 as inserted by section 10 of the bill by replacing it with the following:

330-A:18 Practice of Medicine Unauthorized; Interdisciplinary Collaboration; Long-Term Treatment.

I. Nothing herein shall authorize any person to engage in any manner in the practice of medicine as defined in the laws of this state.

II. Persons certified by this board shall consult in interdisciplinary collaboration with medical doctors licensed under RSA 329 when the diagnosis and treatment of patients involves psycho-pharmaceutical medication or evidence of other medical conditions related to a mental disorders.

Amend RSA 330-A:21 as inserted by section 11 of the bill by replacing it with the following:

330-A:21 Violations.

I. Except as [hereinbefore] **otherwise** provided in RSA 330-A, after July 1, 1959, any person not a certified psychologist who shall represent himself as a psychologist as defined in this chapter, or, **any person not a certified pastoral counselor who shall represent himself as a certified pastoral counselor** or after January 1, 1984, any person not a certified clinical social worker who shall represent

himself as a certified clinical social worker, or, after January 1, 1993, any person not a certified mental health counselor or a certified marriage and family therapist who shall represent himself as a certified mental health counselor or as a certified marriage and family therapist, or any person who violates any of the provisions of RSA 330-A relating to psychology [or], **certified pastoral counselor**, clinical social work, **clinical mental health counseling**, or **marriage and family therapy**, or, having had his certificate suspended or revoked, shall continue to represent himself as a certified psychologist [or], **certified pastoral counselor**, certified clinical social worker, **certified mental health counselor**, or **certified marriage and family therapist** shall be guilty of a misdemeanor, and each violation shall be deemed a separate offense.

II. Any person whose certification under this chapter has been suspended or revoked by the board for disciplinary action under RSA 330-A:14 or sexual misconduct under RSA 330-A:24 shall not engage in the practice of mental health service, as defined in RSA 330-A:1-a, II unless and until the suspension or revocation of the certification is lifted.

Amend RSA 330-A:23, III as inserted by section 12 of the bill by replacing it with the following:

III. "Psychotherapist" means a psychologist, certified clinical social worker, [or] certified pastoral counselor, certified mental health counselor, or certified marriage and family therapist who performs or purports to perform psychotherapy. This definition shall not apply to advanced registered nurse practitioners licensed under RSA 326-B:10.

Amend the bill by inserting after section 13 the following new sections and renumbering the original sections 14 and 15 to read as 16 and 17, respectively:

14 New Subparagraph; Administrative Fines. Amend RSA 330-A:14, III(d) to read as follows:

(d) By requiring the person to participate in a program of continuing education in the area or areas in which he has been found deficient[.];

(e) By assessing administrative fines in amounts established by the board which shall not exceed \$2,000 per offense, or, in the case of continuing offenses, \$200 for each day, not to exceed \$2,000.

15 Associate Psychologists Changed to Psychologists. RSA 330-A:16-a is repealed and reenacted to read as follows:

330-A:16-a Associate Psychologists. Any person who as of July 1, 1989, was certified as an "associate psychologist" under the provisions of RSA 330-A shall be issued a certificate as a psychologist under this chapter.

5894L

AMENDED ANALYSIS

This bill:

(a) Amends existing law to provide for the regulation of mental health practice and makes necessary technical changes.

(b) Defines "mental health service."

(c) Extends the rulemaking authority of the board.

(d) Provides a procedure for disciplinary hearings before the board for persons certified under the chapter.

(e) Provides for the certification of mental health counselors.

(f) Provides for the certification of marriage and family therapists.

(g) Exempts certain conduct from regulation by the board.

(h) Abolishes the certification of associate psychologists and certifies any person currently certified as an associate psychologist as a psychologist.

SENATOR CURRIER: The committee amendment is on page 13 of the bill. I was just recently meeting with the House ED & A committee over a possible additional amendment that we will be dealing with in the Committee of Conference. The amendment is pretty extensive, and basically goes over some of the problems that existed with the House version of the bill, primarily the one that required that clinical social workers and mental health workers refer patients to psychiatrists. That amendment has been, in fact that amendment that the House put in has been actually taken out, and there has been some discussion about some additional work on that particular amendment through the Committee of Conference. This basically develops a certification program for mental health counselors, and expands the board to include those people on the board as well as the psychology and mental health practice board.

SENATOR COLANTUONO: Senator, it is my understanding that this bill would allow certification of marriage and family therapist who have met the requirements of a clinical member of the American Association for Marriage and Family Therapy. Is that correct?

SENATOR CURRIER: Yes, that is correct.

SENATOR COLANTUONO: Is it true that a clinical member of the association who has met the requirements of section 16-f, III, namely the two years of the post masters experience and the 1,000 hours of supervised practice of marriage and family therapy and 200 hours of face-to-face supervision, shall be certified by the board created by this bill without having to pass the national exam?

SENATOR CURRIER: That is correct, Senator. That is my understanding of what this bill will exactly do.

SENATOR COLANTUONO: Thank you.

SENATOR HUMPHREY: Senator Currier, is there anything in this bill as amended, that precludes persons from offering mental health services who is not certified?

SENATOR CURRIER: No. Someone who is not certified still can practice. Matter of fact, there is a provision within the bill that dealt with disciplinary action in terms of those certified that clarified or were more punitive in a sense, that if someone was found guilty of sexual misconduct, so with regard that they would not then be able to go back and hang up their shingle as a psychotherapist, therapist and so forth. There was a lot of discussion in committee about that. But this does not, in fact no one has to become certified, it is just a step in the process of allowing the public to be aware that in fact, that somebody is certified.

SENATOR HUMPHREY: Just to be clear, someone who chooses not to be certified, may practice?

SENATOR CURRIER: That is correct, Senator.

SENATOR HEATH: Senator Currier, does certification bring these people under the umbrella of mandated insurance coverage?

SENATOR CURRIER: I don't believe that to be the case.

SENATOR HEATH: Do you know what the mandated coverage that is already in the law, do you know what that requires? It obviously doesn't cover everyone.

SENATOR CURRIER: In terms of what is reimbursable under the insurance proctors? I can't tell you that, Senator. I am not sure whether someone who is noncertified is qualified for that or whether only somebody who is licensed, is certified, is qualified for that. I am not sure.

SENATOR HEATH: Wouldn't there be a fiscal note that would reflect the impact on town and state and county governments if that were so, should there be a fiscal note?

SENATOR CURRIER: Do you mean does this violate the Constitution under 28-a?

SENATOR HEATH: No, no. I mean, does it have an impact, employees of the municipalities and counties are covered by insurance, if this expands the number of people, it will qualify for the use of that insurance, that would tend to drive premiums, wouldn't it?

SENATOR CURRIER: Senator, I believe that the coverage, the mental health is a rider on the Blue Cross policies and so forth in

some cases, so I am not sure that that is applicable. If in fact the town or city has that coverage now, it may ultimately impact it, but I would rather doubt it.

SENATOR HEATH: To further explain my question, it is my understanding that Blue Cross, Blue Shield covers it and they cover it for counselors of a certain level, and I can't tell you what that level is. My question is, in certifying additional counselors, are we bringing people who are not covered into coverage by the passage of this expanded certification, and if we are, what is the fiscal impact through the increased insurance cost to town and state and municipal county governments?

SENATOR CURRIER: I don't believe that we are doing that, what you are referring to. Senator Colantuono, who is a member of the committee, has some additional information, and I would yield to Senator Colantuono.

SENATOR COLANTUONO: Presently, only psychologists and psychiatrists and one other category who are presently certified are mandated to be covered by insurance. These people are not mandated now, nor will they be under this law.

Committee amendment adopted.

Ordered to third reading.

HB 1501-FN, an act relative to unfunded state mandates. Executive Departments committee. Ought to Pass with Amendment. Senator Colantuono for the committee.

5821L

Amendment HB 1501-LOCAL

Amend the bill by inserting after section 2 the following and re-numbering the original section 3 to read as 4.

3 Task Force; Deadlines Extended. Amend 1991, 389:7 to read as follows:

389:7 Report. The task force shall submit a report to the speaker of the house, the senate president, the governor, and the appropriate standing legislative committees with recommendations for repealing programs or responsibilities. For the purposes of this section, the appropriate standing legislative committees shall be the committee of each house which has legislative jurisdiction over the program or responsibility. The report shall be submitted on or before [June 30, 1992] **September 30, 1992**. The task force shall be disbanded [upon the issuance of its report] **June 30, 1993**.

AMENDED ANALYSIS

This bill clarifies the state's responsibilities under Part I, Article 28-a of the New Hampshire Constitution.

This bill requires that any new, expanded or modified program or responsibility based upon a federal mandates specifically state the federal statute and regulation requiring such program or responsibility.

This bill extends the time for the mandates task force to submit its report to September 30, 1992. The bill also extends the date that the task force shall be disbanded to June 30, 1993.

SENATOR COLANTUONO: This bill was the task force on unfunded mandates which was passed by this legislature. The amendment on page 15 simply extends the task force until June 30, 1993 and extends the time for a report to September 30, 1992. What the bill does is clarify the statutory responsibilities of our administrative agencies under article 28-a of part I of the Constitution. It says that, "no agency may create a mandate which would assign new expanded or modified programs", basically using the same language as article 28-a to clarify that 28-a covers not only laws passed by the legislature, but also rules promulgated by our administrative agencies. It still allows any locality to accept an unfunded mandate if they wish to pay for it, and it still obviously allows a rule to be passed if the legislature funds it and it becomes a mandate. But it doesn't allow unfunded mandates through rules. It also makes it clear that in adopting federal mandates, the state can't graft on new state responsibilities which amount to mandates. Finally, it requires the agencies to specify federal legislation that requires passing on federal mandates, they have to specify exactly what the law does so that the localities know and can challenge it in a meaningful way. The committee, I believe, unanimously recommended this ought to pass.

SENATOR DISNARD: Senator Colantuono, on page two, 541, it starts on line 12. Would this permit the state when it receives a federal mandate not to accept that federal mandate, but pass it along to the communities? I am just . . . money in my communities are the opinion whether they are right or wrong, that the state many times passes on to them costs that really belong to the state. Will this protect the communities that the state won't be able to pass those on to them?

SENATOR COLANTUONO: Well, all that is there, in two parts. Right now, if the federal law has a mandate on states or localities, there is nothing that we or 28-a can do about it, because of the supremacy clause of the Constitution. But, if the federal law passes legislation that gives the state an option to do it or not and the state

goes ahead and does it, this would prohibit the state from doing that. It also . . . what this provision does, the key word in 3-m is on line 15, "responsibilities additional to the federal mandate". This is designed to prohibit the state to adding to the federal mandates and that is why this provision is so important.

SENATOR DISNARD: I understand that, but is there any protection for the communities that the state will not be able to pass onto them something that they were mandated and do not have the funds to do, but want the locals to do?

SENATOR COLANTUONO: If it's a mandate that the federal, that Congress requires all localities to do, there is nothing that we can do to prevent that.

SENATOR DISNARD: I am not getting . . . I am not doing a good job of explaining myself, I am sorry. I will try again. If the federal government mandates the states to accomplish a certain thing, will this protect the communities so that the states cannot pass that responsibility and the fiscal responsibility to the local communities?

SENATOR COLANTUONO: If an agency adopts rules, which mandate a town or locality to do something and it is a state rule, the state has to fund it. That is the answer. The state has to fund it or else they can't . . .

SENATOR DISNARD: I understand what you are saying. I am not getting an answer, that is alright.

Committee amendment adopted.

Ordered to third reading.

HB 1496-FN, an act relative to the funding methodology of the retirement system. Insurance committee. Inexpedient to Legislate. Senator Bass for the committee.

SENATOR BASS: Mr. President, the content of HB 1496 is identical to a Senate amendment that we put on SB 303 which has passed the House and probably has been signed by the Governor. This bill is no longer necessary. The committee urges your support of it's motion of inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

HB 675-FN, an act relative to DWI penalties while operating a motor vehicle, OHRV, or boat or while transporting a child. Judiciary committee. Ought to Pass with Amendment. Senator Russman for the committee.

5876L

09

Amendment to HB 675-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to DWI penalties while operating a motor vehicle, OHRV, or boat, or while transporting a child, and establishing that fines for summonses for motor vehicle violations for which a plea may be made by mail be paid to the division of motor vehicles and making an appropriation therefor.

Amend RSA 265:82-b, VII as inserted by section 1 of the bill by replacing it with the following:

VII. Any person convicted of a violation of RSA 215-A:11, RSA 265:82 or RSA 265:82-a and who at the time of driving a vehicle or off highway recreational vehicle was transporting a person under the age of 16 shall have his driver's license or privilege to drive revoked for the maximum time period under the section violated and shall be required to attend a 7-day residential impaired driver intervention program.

Amend RSA 270:48-a, III as inserted by section 5 of the bill by replacing it with the following:

III. Any person convicted of a violation of this section who, at the time of the violation was transporting a person under the age of 16, shall be required to attend a 7-day residential impaired driver intervention program.

Amend the bill by replacing section 23 with the following:

23 Pleas by Mail; Fines to be Collected by Division of Motor Vehicles. RSA 262:44 is repealed and reenacted to read as follows:

262:44 Waiver in Lieu of Court Appearance. Any person charged with a violation of the provisions of title XXI on vehicles, excluding a violation of RSA 263:1-a, 265:79, 265:82, 265:115, 265:117, a speeding offense under RSA 265:60 for which the defendant must appear in court, and any offense for which the penalty is a misdemeanor or felony, may plead guilty, nolo contendere, or not guilty by mail in the following manner:

I. Such defendant shall receive, in addition to his summons, a uniform fine schedule entitled "Notice of Fine, Division of Motor Vehicles" which shall contain the normal fines for violations of the provisions of title XXI on vehicles for which a plea may be entered by mail. The defendant shall be given a notice of fine indicating the amount of the fine plus penalty assessment at the time the summons is issued; except if, for cause, the summoning authority wishes the

defendant to appear personally. Defendants summoned to appear personally shall do so on the arraignment date specified in the summons, unless otherwise ordered by the court. Defendants who are issued a summons and notice of fine and who wish to plead guilty or nolo contendere shall enter their plea on the summons and return it with payment of the fine plus penalty assessment to the director of motor vehicles within 30 days of the date of the summons. The director of motor vehicles shall remit the penalty assessments collected to the police standards and training council for deposit in the police standards and training council training fund and to the state treasurer for deposit in the victims' assistance fund and the court modernization fund in the percentages and manner prescribed in RSA 188-F:31. Fines shall be paid over to the commissioner of administrative services, or to such department or agency of the state as the law provides, within 14 days of their receipt.

II. If the defendant wishes to enter a not guilty plea, he shall enter such plea on the summons and return it to the division of motor vehicles within 30 days of the date of the summons. The division shall transmit the plea to the appropriate court and the court shall schedule a trial. Upon the conclusion of the trial, the court shall transmit the result of the trial to the division for division records.

III. The uniform fine schedule and administrative processing fee referred to in paragraphs I and II, shall be developed and promulgated by the New Hampshire supreme court after approval by the legislative fiscal committee.

IV. The commissioner of the department of safety shall adopt rules, pursuant to RSA 541-A, relative to the forms and procedures required for the division of motor vehicles and department of safety to carry out their duties and responsibilities under this section.

V. The commissioner of the department of safety shall make an annual report to the legislative committee on fines and fines in defaults, paid and unpaid, for each year beginning with 1993.

24 Reference to Motor Vehicle Violations Deleted. Amend the introductory paragraph and paragraphs I and II of RSA 502-A:19-b to read as follows:

502-A:19-b Pleas by Mail; Procedure. In any case in which a defendant may, pursuant to RSA 206:34[, RSA 262:44,] or RSA 270:11-a, enter a plea by mail in a district or municipal court, the following procedure shall be followed:

I. Such defendant shall receive, in addition to his summons, a uniform fine schedule entitled "Notice of Fine, New Hampshire District and Municipal Courts" which shall contain the [normal fines for violations of the provisions of title XXI on vehicles, excluding violations of RSA 265:79, 265:82 or any offense for which the penalty is a misdemeanor or felony; the] normal fines for violations of the provi-

sions of RSA 270, 270-A, and 270-E, excluding any offense for which the penalty is a misdemeanor or felony; and the normal fines for violations of the provisions of title XVIII on fish and game laws, excluding any offense for which the penalty is a misdemeanor or felony. The defendant shall be given a notice of fine indicating the amount of the fine plus penalty assessment at the time the summons is issued; except if, for cause, the summoning authority wishes the defendant to appear personally. Defendants summoned to appear personally must do so on the arraignment date specified in the summons, unless otherwise ordered by the court. Defendants who are issued a summons and notice of fine and who wish to plead guilty or nolo contendere shall enter their plea on the summons and return it with payment of the fine plus penalty assessment to the clerk of the court prior to the arraignment date or appear in court on the date of arraignment. Defendants in violation of the provisions of title XVIII shall be subject to the provisions of RSA 207:18 and RSA 214:19.

II.(a) Whenever a defendant:

(1) Does not enter a plea by mail prior to the arraignment day or does not appear personally or by counsel on or before that date or move for a continuance; or

(2) Otherwise fails to appear for a scheduled court appearance in connection with a summons for any offense; the defendant shall be defaulted and the court shall determine what the fine would be upon a plea of guilty or nolo contendere and shall impose an administrative processing fee in addition to the fine and penalty assessment[, and in the case of violations of title XXI, the defendant's driving privileges shall be suspended as provided in RSA 263:56-a]. The provisions of RSA 207:18 and RSA 214:19, as applicable, shall apply to a defendant in violation of the provisions of title XVIII.

(b) In defaulted cases of violations of [title XXI or] title XVIII, the court shall notify [the director of the division of motor vehicles of the defendant's default of a title XXI violation, or] the executive director of the department of fish and game of the defendant's default of a title XVIII violation, and the amounts of the fine and other penalties on a form prescribed by the [director of the division of motor vehicles or the] executive director of the department of fish and game[, as appropriate]. The amount of the administrative processing fee shall be determined by the New Hampshire supreme court in accordance with the provisions of paragraph V of this section.

25 New Section; Arrest Warrants; Notification of State Police. Amend RSA 491 by inserting after section 24 the following new section:

491:25 Arrest Warrants; Copies Transmitted to State Police. A copy of each arrest warrant issued by a court shall be transmitted by

computer to the division of state police. The state police make information regarding the warrant available to the arresting police department and all local police departments and sheriffs. In the eleventh month after the warrant is issued, the state police shall contact the court which issued the warrant for updated information and the court shall reissue the warrant if the state still has a case against the defendant.

26 New Section; District Courts; Arrest Warrants; Notification of State Police. Amend RSA 502-A by inserting after section 27-d the following new section:

502-A:27-e Arrest Warrants; Copies Transmitted to State Police. A copy of each arrest warrant issued by a court shall be transmitted by computer to the division of state police. The state police make information regarding the warrant available to the arresting police department and all local police departments and sheriffs. In the eleventh month after the warrant is issued, the state police shall contact the court which issued the warrant for updated information and the court shall reissue the warrant if the state still has a case against the defendant.

27 Reference to Motor Vehicle Violations Deleted; Penalty Assessments; Collection. Amend RSA 188-F:31, I to read as follows:

I. Every court shall levy a penalty assessment of \$2 or 20 percent, whichever is greater, on each fine or penalty imposed by the court for a criminal offense, including any fine or penalty for a violation of RSA title XXI, except for fines and penalties paid by mail to the division of motor vehicle, or any municipal ordinance, except for a violation of a municipal ordinance relating to motor vehicles unlawfully left or parked. Such penalty assessment shall be divided into the following components, to be designated as follows: 15 percent for the police standards and training council training fund and 2 percent for the victims' assistance fund. The remaining 3 percent shall be collected by the clerk of the court for the benefit of the court modernization fund established under RSA 502-A:37.

28 Reference to Motor Vehicle Violations Deleted; Penalty Assessments; Collection. Amend RSA 188-F:31, I to read as follows:

I. Every court shall levy a penalty assessment of \$2 or 15 percent, whichever is greater, on each fine or penalty imposed by the court for a criminal offense, including any fine or penalty for a violation of RSA title XXI, except for fines and penalties paid by mail to the division of motor vehicles, or any municipal ordinance, except for a violation of a municipal ordinance relating to motor vehicles unlawfully left or parked. Such penalty assessment shall be designated for the police standards and training council training fund.

29 Appropriation. The sum of \$75,000 for the fiscal year ending June 30, 1993 is hereby appropriated to the department of safety for the purposes of sections 23-27 of this act. Notwithstanding RSA 263:56-d, this appropriation shall be a charge on the DWI bench warrant fund. The governor is authorized to draw his warrant for said sum from the DWI bench warrant fund.

30 Contingency. Sections 23-27 of this act shall take effect for the courts in Rockingham county on January 1, 1993. For the courts in the remaining counties, sections 23-27 of this act shall take effect as each court is computerized in coordination with the division of motor vehicles, beginning in January, 1994 and continuing thereafter in each jurisdiction as each court is computerized.

31 Effective Date.

I. Section 29 of this act shall take effect July 1, 1992.

II. Section 28 of this act shall take effect July 1, 1998, at 12:01 a.m.

III. Section 30 of this act shall take effect upon its passage.

IV. Sections 23-27 of this act shall take effect as provided in section 30 of this act.

V. The remainder of this act shall take effect January 1, 1993.

AMENDED ANALYSIS

This bill:

(1) Requires any conviction for driving under the influence of alcohol or drugs, for aggravated DWI, or for boating while intoxicated to be reported to the department of safety and thereafter to become a part of a person's motor vehicle record.

(2) Requires, in addition to other penalties, that a person convicted of a violation of DWI or aggravated DWI or boating while intoxicated while transporting a person under the age of 16 attend a 7-day residential impaired driver intervention program.

(3) Reduces boating under the influence of alcohol or drugs from a misdemeanor to a violation.

(4) Upon any first offense for driving while under the influence of alcohol or drugs in an OHRV, permits a subsequent offense to constitute a second offense for penalty purposes.

(5) Repeals and reenacts various laws relative to OHRV operation while intoxicated to make those laws consistent with penalties imposed for operating a motor vehicle while intoxicated.

(6) Establishes that fines for summonses for motor vehicle violations for which a plea may be made by mail be paid to the division of motor vehicles rather than to the district courts. This provision will not take effect until the department of safety and the district courts are able to fully coordinate their computer systems and make the

transmittals of information required by this bill via computer. An appropriation is made from the DWI bench warrant fund to cover the costs of this change.

SENATOR RUSSMAN: This is relative to the DWI penalties, and it essentially enhances a lot of the penalties and changes the . . . it makes OHRV's come under it and the boating. The only issue that we changed was if somebody had a child under the age of 16 with them at the time they would have to go to jail and because of a problem as far as appointed counsel and that type of thing, we struck that to make that a violation, I believe, and they had to go to a treatment facility instead of a jail, so they wouldn't come under the requirement of having to have a court appointed attorney. So I think that we would urge passage of the bill.

Committee amendment adopted.

Ordered to third reading.

HB 689-FN, an act relative to implied consent and administrative motor vehicle license suspension. Judiciary committee. Senator Colantuono for the committee. Ought to Pass with Amendment.

5900L

Amendment to HB 689-FN

Amend RSA 265:91-d as inserted by section 7 of the bill by replacing it with the following:

265:91-d Appeal. Any person aggrieved by a decision of the department under this section, after the administrative review or hearing, may appeal the decision as provided in RSA 263:75.

Amend the bill by replacing section 13 with the following:

13 Effective Date.

I. Section 2 of this act shall take effect 60 days after its passage.

II. The remainder of this act shall take effect January 1, 1993.

Amend the bill by deleting sections 1, 4, 11 and 12 and renumbering the original sections 2-3, 5-10 and 13 to read as 1-9, respectively.

SENATOR COLANTUONO: This is a significant bill, it puts New Hampshire in line with the current trend to allow for administrative suspension of licenses following DWI arrests when persons refuse to submit to either physical testing or breath testing. The amendment on page 18 of the calendar corrects what we thought was an unfairness in the bill by taking away the right of de novo appeal, that is put back, but otherwise the bill stands as drafted. There was overwhelming testimony in favor of the bill at the committee hearing, and the committee recommends ought to pass as amended.

Committee amendment adopted.

Ordered to third reading.

HB 1128, an act classifying certain misdemeanors as either class A or class B. Judiciary committee. Ought to Pass with Amendment. Senator Colantuono for the committee.

5903L

Amendment to HB 1128

Amend RSA 625:9, VIII as inserted by section 2 of the bill by replacing it with the following:

VIII. If a person convicted of a class A misdemeanor has been sentenced and such sentence does not include any period of actual incarceration or a suspended or deferred jail sentence or any fine in excess of the maximum provided for a class B misdemeanor in RSA 651:2, IV(a), the court shall record such conviction and sentence as a class B misdemeanor. Notwithstanding the foregoing, the person so convicted shall be deemed to have been convicted of a class A misdemeanor for the purposes of appeal.

Amend RSA 597:2, VI as inserted by section 4 of the bill by replacing it with the following:

VI. Notwithstanding any law to the contrary, upon the appearance of a person charged with a class B misdemeanor, the court or justice shall issue an order that, pending arraignment, the person be released on his personal recognizance, unless the court determines that such release will endanger the safety of the person or of any other person or the community. The court shall appoint an attorney to represent any indigent person charged with a class B misdemeanor denied release for the purpose of representing such person at any detention hearing.

Amend RSA 599:1 as inserted by section 6 of the bill by replacing it with the following:

6 Class A Misdemeanors; Appeals. Amend RSA 599:1 to read as follows:

599:1 Appeals. A person [sentenced] **convicted** by a district or municipal court [for] **of a class A misdemeanor** [or for any offense which provides the basis for enhanced penalties if the offender is subsequently convicted of the same offense, or who has been sentenced by the imposition of a civil penalty bringing the total fines and penalties for a violation to an amount in excess of \$500], at the time the sentence is declared, **may** appeal therefrom to the superior court, **which shall hear the appeal**. The appeal shall be entered by the appellant at the next return day unless for good cause shown the time is extended by the superior court. In all misdemeanor cases which are so appealed or in which defendants are bound over it shall be the duty of the superior court to transmit to the justice of the

district or municipal court, within 10 days after the case is finally disposed of, a certificate showing the final disposition of the case.

Amend the bill by inserting after section 22 the following and re-numbering the original section 23 to read as 25.

23 New Section; Electronic Monitoring Incarceration Alternative. Amend RSA 651 by inserting after section 25 the following new section:

651:25-a Electronic Monitoring Release.

I. Any person who has been committed to the minimum security unit of the state prison or a county correctional facility under a criminal sentence, except as provided in paragraph II, may be released at the request of the department of corrections, upon order by the sentencing court at the time of sentence or at any time during the term of sentence, for the purpose of reducing the cost of incarcerating the person. If released, the person shall be equipped with an electronic monitoring device which shall be used by local and state law enforcement officials to supervise the person's release. The court may order any other terms and conditions of the release. Any day spent in the free community under such a release order shall be counted as a full day toward the serving of the sentence unless otherwise provided by the court. If a person violates the terms and conditions laid down for his conduct, he shall be returned to the correctional facility upon the order of the department of corrections. Failure of such prisoner to return as ordered shall be considered an escape from official custody. The department of corrections may charge the prisoner a fee to offset the costs of monitoring and supervising the electronic surveillance. **Nothing in this section shall prohibit electronic monitoring for work release under RSA 651:25.**

II. Persons convicted to an offense, an attempt or conspiracy to commit an offense, under RSA 318-B:2, II; 318-B:26, I or II; 630:1; 630:1-a; 630:1-b; 630:2; 631:1; 632-A:2; 633:1; 636:1; 642:6; 642:9; 648; 649; 649-A; or 650-A:1, shall not be eligible for electronic monitoring release under paragraph I.

24 Submission of Report. The commissioner of the department of corrections shall submit a report detailing the effectiveness of the electronic monitoring release program within one year of the effective date of this act to the president of the senate, the speaker of the house of representatives, and the governor.

AMENDED ANALYSIS

This bill:

(1) Designates certain misdemeanors as class B, crimes for which the maximum penalty is a fine not to exceed \$1,200. Class A misdemeanors are defined as having a maximum penalty of imprisonment for 1 year and a fine not to exceed \$2,000.

(2) Permits the state, at arraignment, after entry of appeal to superior court, or at any time with the agreement of the person charged, to reduce a class A misdemeanor to a class B.

(3) Provides that if a person is convicted of a class A misdemeanor but only sentenced to a fine or a suspended or deferred jail sentence not exceeding the maximum fine for a class B misdemeanor, the court shall record the conviction and sentence as a class B misdemeanor.

(4) Limits the authority of a court to detain a person charged with a class B misdemeanor pending arraignment.

(5) Prohibits a person convicted of a class B misdemeanor from appealing to the superior court.

(6) Requires the court to provide written notice to any person convicted of a class B misdemeanor that he has the right to apply to the court for an order to annul the conviction and sentence any time after one year following completion of the terms of the sentence. The order shall be issued provided the person has not committed a felony or misdemeanor during the period extending 1 year from sentencing to 1 year after completion of the terms of the sentence.

(7) Designates certain misdemeanors as class B misdemeanors.

(8) Permits certain prisoners to be released with electronic monitoring devices upon request of the commissioner of the department of corrections and by order of the sentencing court. The sentencing court may require other terms and conditions of the release. The department of corrections may charge the prisoner a fee to offset the costs of electronic surveillance.

(9) Requires the commissioner of the department of corrections to submit a report detailing the effectiveness of the electronic monitoring program.

SENATOR COLANTUONO: This bill creates two different classes of misdemeanors for the first time under our law. Class A misdemeanors which are punishable by prison and for which a person has a right to a lawyer, and class B misdemeanors which are punishable by a maximum fine not to exceed \$1,200. What this bill will accomplish for the state is to cut down drastically on the amounts spent for indigent defense attorney's because the state can now charge, even crimes which the statute said are class A misdemeanors, the state still has the option of charging them as class B misdemeanors. The list of statutes affected is in the bill. The amendment on page 19 of the calendar, which starts on page 18, actually. It includes something that the committee wanted to put back in, the bill that we passed

earlier in this session concerning electric monitoring release, for some reason was killed by the House. We put it back in because we think that that is essential to control prison costs in the future. That is on page 19.

Committee amendment adopted.

Ordered to third reading.

HB 1226-FN, an act to protect the department of transportation against liability in the construction and maintenance of highways and highway bridges. Judiciary committee. Ought to Pass with Amendment. Senator Hollingworth for the committee.

5907L

Amendment to HB 1226-FN

Amend RSA 230:78, I as inserted by section 2 of the bill by replacing it with the following:

I. Whenever any class I or class II highway or highway bridge in the state shall be insufficient, any person may give notice of such insufficiency to the department of transportation. The notice shall set forth in general terms the location of such highway or highway bridge, and the nature of such insufficiency.

Amend RSA 231:80 as inserted by section 2 of the bill by replacing it with the following:

230:80 Liability of the Department of Transportation; Standard of Care.

I. The department of transportation shall not be held liable for damages in an action to recover for personal injury or property damage arising out of its construction, maintenance, or repair of public highways and highway bridges unless such injury or damage was caused by an insufficiency, as defined by RSA 230:78, and:

(a) The department of transportation received a notice of such insufficiency as set forth in RSA 230:78, but failed to act as provided by RSA 230:78; or

(b) The commissioner of the department of transportation who is responsible for maintenance and repair of highways or highway bridges, had actual notice or knowledge of such insufficiency, by means other than notice pursuant to RSA 230:78 and were grossly negligent or exercised bad faith in responding or failing to respond to such actual knowledge; or

(c) The condition constituting the insufficiency was created by an intentional act of an employee acting in the scope of his official duty while in the course of his employment, acting with gross negligence, or with reckless disregard of the hazard.

(d) The department of transportation shall adopt rules, under RSA 541-A, relative to procedures for written and oral notice, and for the transfer of personal knowledge regarding insufficiencies to responsible supervisory persons, to insure that information relative to such insufficiencies in the highway system quickly communicated to those empowered to make decisions about repairs and posting.

II. Any action to recover damages for bodily injury, personal injury or property damage arising out of construction, repair or maintenance of its public highways or highway bridges shall be dismissed unless the complaint describes with particularity the means by which the department of transportation received actual notice of the alleged insufficiency, or the intentional act which created the alleged insufficiency.

III. The acceptance or layout of a public highway shall not be construed to confer upon the department of transportation any notice of, or liability for, insufficiencies or defects which arose or are created prior to such layout or acceptance.

IV. The setting of construction, repair, or maintenance standards of levels of service of highways and highway bridges by the commissioner, whether accomplished formally or informally, shall be deemed a discretionary, policy function for which the department of transportation shall not be held liable in the absence of malice or bad faith.

Amend the bill by replacing all after section 2 with the following:

3 Rule Adoption Deadline. The department shall adopt rules as required under RSA 230:80, I(d) no later than December 1, 1992, and shall submit such rules to the general court for its review no later than January 1, 1993.

4 Application. The provisions of this act shall apply only to the claims arising out of incidents occurring on or after the effective date of this act.

5 Effective Date. This act shall take effect January 1, 1993.

SENATOR HOLLINGWORTH: HB 1226 was requested by the Department of Transportation to limit their liability for actions brought against them for road hazards caused by reasons other than the departments construction. The amendment deals with the municipalities and counties decision regarding the use of salt and chemicals on the roads in the winter and clarifies that portion of the RSAs. The amendment also deals with how the Department of Transportation will receive notification of the road hazards, both verbally and in

writing, and stipulates so that the Department will adopt rules to deal with that special notification. This bill is similar to the one that we passed last year for the municipalities, and we ask that you support our recommendation of ought to pass with amendment.

Committee amendment adopted.

Ordered to third reading.

HB 1293, an act reducing the penalty for adultery from a misdemeanor to a violation. Judiciary committee. Inexpedient to Legislate. Senator Podles for the committee.

SENATOR PODLES: Mr. President, HB 1293 that issue is taken care of in HB 1128; therefore, the bill is unnecessary, and the committee recommends inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

HB 1326, an act requiring that service of process at a defendant's abode comply with court rules. Judiciary committee. Inexpedient to Legislate. Senator Podles for the committee.

SENATOR PODLES: Mr. President, HB 1326 requires that writs and other processes left at a defendants' abode must comply with related requirements applicable to the rules of court. Since the bill is contingent on the proposed rules of civil procedure of the court, which not have been passed, the committee finds the bill unnecessary, and we recommend inexpedient to legislate.

Committee report of inexpedient to legislate is adopted.

HB 1462-FN, an act establishing a committee to examine all aspects of parole eligibility. Judiciary committee. Ought to Pass. Senator Podles for the committee.

SENATOR PODLES: Mr. President, HB 1462 establishes a committee to examine all aspects of parole eligibility including truth in sentencing and good conduct credits. The committee must also submit a report including proposed legislation no later than November 1, 1992. The committee recommends ought to pass.

Adopted.

Ordered to third reading.

HB 1498-FN, an act relative to drug forfeiture. Judiciary committee. Ought to Pass. Senator Hollingworth for the committee.

Senator Hollingworth moved to have HB 1498-FN an act relative to drug forfeiture laid on the table.

Adopted.

LAI D ON THE TABLE

HB 1498-FN an act relative to drug forfeiture.

HB 1498-FN is laid on the table.

Recess.

Out of recess.

HB 601, an act establishing a public water access advisory board and a statewide public boat access program and continually appropriating a special fund for the purposes of the program and creating a new class of highways for access to public waters. Finance committee. Ought to Pass. Senator Blaisdell for the committee.

SENATOR BLAISDELL: Mr. President and members of the Senate, this bill is a policy bill that came out of Senator Heath's committee, and Senate Finance took a look at it, and we agree with what the policy committee set up, and we move ought to pass.

SENATOR HUMPHREY: Senator Blaisdell, I don't know what the committees procedures are when a bill has been rereferred to it. Does the committee then hold another hearing or not?

SENATOR BLAISDELL: No, we do not have to hold another hearing, Senator.

Recess.

Out of recess.

SENATOR HUMPHREY: Mr. President, I want to again express my concern about the provision of this bill that specifically creates four or five new positions in a state agency. I don't recall another bill that we have approved this year that has increased employment positions in the state to the contrary. This seems to me to be, however virtuous this proposal may be, it is creating new employment positions in the state government. I would also note that this \$5 fee, will fall on top of other existing fees that range anywhere from \$12 to \$46 for registering a boat and a few other odds and ends that can add a couple of more dollars. It just seems to me that a better way to approach this would be to require that the Fish and Game Commission undertake this program with the existing personnel complement. That is what I think.

SENATOR HEATH: I want to speak, but in part I want to answer Senator Humphrey as well. There is no time in our future, I don't believe, that the acquisition of Lake Shore or River Shore access is going to be any cheaper than it is today and it is not cheap today. I don't think that it is ever going to get any cheaper. I think that if we don't acquire and secure this for the public that very shortly many of

those options of public waters will be cut off forever to the general public. It will become solely the domain of the people who are wealthy enough to become landowners. The question is, whether we should add new employees. Guess I have been as critical of the expansion of state government as anybody in this body for a long time, but I think that we need to have some specialist that get to work on the access while the iron is hot and while the iron, when the economy returns, is going to be very cold because of the cost and the increasing inability of state government to do all of the things that it wishes to and wants to in this body and the body across the wall asks it to do. So I think that this is the time to do this. Whether or not one can feel terribly sympathetic on \$5 a year for a boat owner, a boat marine dealer once told me a definition of a boat is a hole carved out of the water lined with fiberglass and filled with money. Truly \$5 for the average boat owner on an annual basis is not much to ask considering he or she is going to be the chief beneficiary of the access that is going to be provided, and I don't think that most of them would object, but it is certainly giving the average boat today probably is in the \$15,000 class and the average winter storage fees are around \$700 to say nothing of the maintenance and the fuel and the dockage and so forth. I think that the boat owners individually would be quite willing to throw this into the kitty if they see a return. The intent of this is to get access while some is still available, and while the cost is as low as it is going to be perhaps in the next 100 years.

SENATOR PODLES: Senator Heath, I understand that the bill includes a repeal of RSA 230:63 to 71 and would you believe that by repealing that section, the Governor and Council will no longer have authority to lay out highways to public waters? Could you tell me why?

SENATOR HEATH: I can't. I don't know. That is not something that I . . . that must have come from the House?

SENATOR PODLES: I don't know.

SENATOR HEATH: I draw a blank on it.

SENATOR PODLES: It was amended by the Senate and I don't know whether that was in your amendment.

Senator Fraser moved to have HB 601 an act establishing a public water access advisory board and a statewide public boat access program and continually appropriating a special fund for the purposes of the program and creating a new class of highways for access to public waters laid on the table.

Adopted.

LAI D ON THE TABLE

HB 601 an act establishing a public water access advisory board and a statewide public boat access program and continually appropriating a special fund for the purposes of the program and creating a new class of highways for access to public waters.

HB 601 is laid on the table.

HB 1254, an act relative to public employee labor relations board hearings. Finance committee. Ought to Pass. Senator Blaisdell for the committee.

SENATOR BLAISDELL: Mr. President and members of the Senate, Senate Finance looked at this bill and this is also another policy bill. We found that the Public Labor Relations Board is seven to nine months behind. We believe that it is in the best interest of the people of the state because you must render a decision within 45 days and it hasn't been done and we are seven to nine months behind. Senate Finance recommends ought to pass.

Adopted.

Ordered to third reading.

HB 1394-FN-A, an act making supplemental appropriations to the department of justice and the department of health and human services. Finance committee. Inexpedient to Legislate. Senator Blaisdell for the committee.

SENATOR BLAISDELL: Senate Finance, Mr. President and members of the Senate, feel that this is inexpedient to legislate. The monies are carried into HB 1025 which have been agreed to by the House and Senate, and there is no more need for the bill.

Committee report of inexpedient to legislate is adopted.

HB 1395-FN-A, an act relative to soil conservation districts and making a supplemental appropriation therefor. Finance committee. Inexpedient to Legislate. Senator Blaisdell for the committee.

SENATOR BLAISDELL: Mr. President, HB 1395 is just like the bill before. HB 1395 is being carried in HB 1025, which has been agreed to by the House and Senate, there is no more need for the bill.

Committee report of inexpedient to legislate is adopted.

HB 1402-FN, an act relative to competitive bidding purchases of services from nonprofit organizations by certain state agencies for severely disabled or emotionally disturbed children. Finance committee. Ought to Pass. Senator Blaisdell for the committee.

SENATOR BLAISDELL: Mr. President and members of the Senate, there is no money in this bill, this is just a policy change that the Department of Education came before us on. It is something that Senate Finance feels should be done. We recommend ought to pass.

Adopted.

Ordered to third reading.

HB 1414-FN-A, an act relative to the medicaid plan to enhance the funding of services for children and families and making an appropriation therefor. Finance committee. Ought to Pass. Senator Hough for the committee.

SENATOR HOUGH: The committee on Finance recommends passage of HB 1414. The bill appropriates \$50,000 in general funds to change the state's medicaid plans so that we may acquire additional federal funds from programs in the DCYS. Section 54 of HB 1025 which has passed this body and the House and now is the subject of the Conference, substitutes the \$50,000 of federal funds for general funds in DCYS so the net impact on the general fund from this bill is nil. This bill was introduced by Representative Chambers. She introduced this bill because she became aware that Maine, the state of Maine had already done this and realized that there is an additional \$20,000,000 in federal funding. Health and Human Services has a copy of the study done in the state of Maine and will use the appropriation in the bill to shape the Maine study to fit New Hampshire's needs. The aim is to provide additional health services for children in foster care situations. We recommend support of this bill, ought to pass, thank you.

Adopted.

Ordered to third reading.

HB 1447-FN, an act increasing witness fees for law enforcement officers. Finance committee. Ought to Pass. Senator Roberge for the committee.

SENATOR ROBERGE: Mr. President and members of the Senate, the cities and the towns that I represent are overwhelmingly in favor of this piece of legislation. The money is in the Attorney General's Office budget. There are fewer officers requiring to be witnesses. The money is actually going down. It has gone down 47 percent between 1991 and 1992. I urge passage of this measure.

SENATOR DISNARD: Senator Roberge, does this mean that a police officer who is receiving a salary for today, if he or she had to attend, would that person get an additional \$30 over the days salary?

SENATOR ROBERGE: No, he wouldn't get paid double.

SENATOR COLANTUONO: Was there any discussion in the committee whether it is fair for police officers to get a higher witness fee than an average citizen who goes to court?

SENATOR ROBERGE: I don't believe the issue was brought up in committee.

SENATOR COLANTUONO: How would it effect the budget if we were to amend this bill to say that all witnesses were to get \$30 a day?

SENATOR ROBERGE: It would be quite a bit, not only that, but this money is already budgeted, it is not going to increase expenditures at all. I would assume that if you are going to add an additional group, then it would increase expenditures, and I don't think that you want to do that this year.

SENATOR COLANTUONO: I would just like to say that I don't believe that it is fair that we should single out any type or group of witnesses. I think that all witnesses should get paid the same. I think that the bill should be reworked to either give law enforcement officers or all witnesses \$15 for each half day or else up the average citizens fee to \$30. To have police officers get \$30 a day for showing up for a 15 minute hearing and where an average citizen only gets \$12 for showing up at 8:00 and sitting around until noon, I think, that is blatantly unfair.

SENATOR BLAISDELL: Senator Colantuono, do you know that whether we pass it or not the police officer is still going to get \$30 a day? The cities and towns are going to have to pay them?

SENATOR COLANTUONO: Well, the way that I understand that it works, is that if a police officer is on duty, they don't get a witness fee, period. But if they are not on duty, they get whatever the legislature says that they are going to get through state funds.

SENATOR BLAISDELL: Right. And if we don't pay . . . they still get up to \$30 a day, that was the testimony that was in our committee and the cities and towns have been picking it up, that is why we said that we looked at the budget to make sure that there was enough money to cover it. I can assure you that it will be addressed in the next budget, I can tell you that.

SENATOR HEATH: Senator Blaisdell, presently, cities and towns pay this fee, right?

SENATOR BLAISDELL: That is right.

SENATOR HEATH: So we are moving this cost onto the state?

SENATOR BLAISDELL: We are moving the cost, the difference between the \$12 and the \$30, yes. That is what we are moving. Yes.

SENATOR HEATH: Now my question is, is this one of those things that because of the constitutional mandated cost issue, that we can never move in the other direction, even if we grow poorer at the state level, we can never return that cost to them because that would then be a mandated cost, so that it is sort of like a ratchet that you move it on to the state and it is there forever?

SENATOR BLAISDELL: I am not sure that it is there forever, because in the last session of the budget we cut it down, but it reverted back to the cities and towns and they all got up in arms. You must have received all of the letters that I did?

SENATOR HEATH: No, you got all of the letters on the money stuff.

SENATOR BLAISDELL: Well, Senator Roberge and all of us . . .

SENATOR HEATH: I just get the animal letters.

SENATOR BLAISDELL: Well, certainly there was a tremendous amount of letters back and forth from the cities and towns, that they were the ones that were picking up the cost now. What we did, was to find out in the Attorney General's Office how much money was left, there is enough for the year to finish it out, because the witnesses are not as many as they used to be, by the way.

SENATOR HEATH: But this legislation doesn't expire when the money runs out, does it?

SENATOR BLAISDELL: Pretty close, you will find out, yes. It is in the Attorney General's Office now, it's in the budget. It will have to come to a new budget process in the next session.

SENATOR HEATH: But I am saying that there is no sunset on this piece of legislation.

SENATOR BLAISDELL: No.

SENATOR HEATH: So the money will expire, but the law won't expire.

SENATOR BLAISDELL: In the next session of the legislature, the legislature can change anything that they like.

SENATOR HEATH: But then does it become a mandated cost because you are pushing it back onto the towns?

SENATOR BLAISDELL: No.

SENATOR J. KING: Just one comment. I think that one of the things that has happened here, is I think, that prior to this it was \$30 a day and then they cut it to \$12 for half a day. I know in the city of Manchester, they get more for one hour than this whole thing would

pay, and as a result of that the total amount, if they work eight hours, they get paid for the eight hours and most of your cities are in the same predicament. So as a result of this \$30, it is just a token that is being given. So they could lose eight times whatever the amount is, I think it is \$25 an hour that they have to pay them. So the difference between this and the state subsidizes \$25 to \$30 and what they have to pay for the actual day or half a day for the number of hours put in by that person, comes out of the budget of the Police Department.

SENATOR HEATH: Senator King, are you telling me that they get \$20 an hour?

SENATOR J. KING: I am not quite sure what their salary is.

SENATOR HEATH: In that neighborhood?

SENATOR J. KING: Yes, I would say that.

SENATOR HEATH: So in five hours they can get the equivalent pay that we get in a year?

SENATOR J. KING: I wouldn't know why they do that because we work hard, too.

SENATOR HEATH: I was wondering if there was some societal values involved here.

Adopted.

Ordered to third reading.

HB 778-FN, an act relative to the laws against discrimination. Public Affairs committee. Ought to Pass with Amendment. Senator Bass for the committee.

5342L

Amendment to HB 778-FN

Amend the bill by replacing all after the enacting clause with the following:

1 Law Against Discrimination; Familial Status Category Added. RSA 354-A is repealed and reenacted to read as follows:

CHAPTER 354-A

STATE COMMISSION FOR HUMAN RIGHTS

354-A:1 Title and Purposes of Chapter. This chapter shall be known as the "Law Against Discrimination." It shall be deemed an exercise of the police power of the state for the protection of the public welfare, health and peace of the people of this state, and in fulfillment of the provisions of the constitution of this state concern-

ing civil rights. The general court hereby finds and declares that practices of discrimination against any of its inhabitants because of age, sex, race, creed, color, marital status, familial status, physical or mental disability or national origin are a matter of state concern, that such discrimination not only threatens the rights and proper privileges of its inhabitants but menaces the institutions and foundation of a free democratic state and threatens the peace, order, health, safety and general welfare of the state and its inhabitants. A state agency is hereby created with power to eliminate and prevent discrimination in employment, in places of public accommodation and in housing accommodations because of age, sex, race, creed, color, marital status, familial status, physical or mental disability or national origin as herein provided; and the commission established hereunder is hereby given general jurisdiction and power for such purposes.

354-A:2 Definitions. In this chapter:

I. "Commercial structure" means any building, structure, or portion thereof which is continuously or intermittently occupied or intended for occupancy by a commercial or recreational enterprise, whether operated for profit or not, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

II. "Commission," unless a different meaning clearly appears from the context, means the state commission for human rights created by this chapter.

III. "Covered multifamily dwellings" means:

(a) Buildings consisting of 4 or more units if such buildings have one or more elevators; and

(b) Ground floor units in other buildings consisting of 4 or more units.

IV. "Disability" means, with respect to a person:

(a) A physical or mental impairment which substantially limits one or more of such person's major life activities;

(b) A record of having such an impairment; or

(c) Being regarded as having such an impairment.

Provided, that "disability" does not include current, illegal use of or addiction to a controlled substance as defined in the Controlled Substances Act 21 U.S.C. 802 sec. 102.

V. "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

VI. "Employee" does not include any individual employed by a parent, spouse or child, or any individual in the domestic service of any person.

VII. "Employer" does not include a club exclusively social, or a fraternal, charitable, educational or religious association or corporation, if such club, association or corporation is not organized for private profit, nor does it include any employer with fewer than 6 persons in its employ, but shall include the state and all political subdivisions, boards, departments and commissions thereof.

VIII. "Employment agency" includes any person undertaking to procure employees or opportunities to work.

IX. "Familial status" means one or more individuals, who have not attained the age of 18 years of age, and are domiciled with

(a) A parent, grandparent or another person having legal custody of such individual or individuals; or

(b) The designee of such parent or other person having such custody, with the written permission of such parent or other person. "Familial status" also means any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

X. "Labor organization" includes any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection in connection with employment.

XI. "Multiple dwelling" means 2 or more dwellings, as defined in paragraph V, occupied by families living independently of each other.

XII. "National origin" includes ancestry.

XIII. "Person" includes one or more individuals, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, trustees in bankruptcy, receivers, and the state and all political subdivisions, boards, and commissions thereof.

XIV. "Place of public accommodation" includes any inn, tavern or hotel, whether conducted for entertainment, the housing or lodging of transient guests, or for the benefit, use or accommodations of those seeking health, recreation or rest, any restaurant, eating house, public conveyance on land or water, bathhouse, barbershop, theater, golf course, sports arena, health care provider, and music or other public hall, store or other establishment which caters or offers its services or facilities or goods to the general public. "Public accommodation" shall not include any institution or club which is in its nature distinctly private.

XV. "Unlawful discriminatory practice" includes:

(a) Practices prohibited by RSA 354-A;

(b) Practices prohibited by the federal Civil Rights Act of 1964, as amended (PL 88-352);

(c) Practices prohibited by Title VIII of the Civil Rights Act of 1968, as amended (42 U.S.C. 3601-3619);

(d) Aiding, abetting, inciting, compelling or coercing another or attempting to aid, abet, incite, compel or coerce another to commit an unlawful discriminatory practice or obstructing or preventing any person from complying with this chapter or any order issued under the authority of this chapter.

354-A:3 State Commission for Human Rights.

I. There is hereby created a commission to be known as the New Hampshire commission for human rights. Such commission shall consist of 7 members, who shall be appointed by the governor, with the consent of the council, and one of whom shall be designated as chair by the governor. The term of office of each member of the commission shall be for 5 years.

II. Any member chosen to fill a vacancy occurring otherwise than by expiration of term shall be appointed for the unexpired term of the member whom is to be succeeded. Three members of the commission shall constitute a quorum for the purpose of conducting the commission's business. A vacancy in the commission shall not impair the right of the remaining members to exercise all the powers of the commission. Each member of the commission shall be entitled to his expenses actually and necessarily incurred by him in the performance of his duties.

III. Any member of the commission may be removed by the governor and council for inefficiency, neglect of duty, misconduct or malfeasance in office, after being given a written statement of the charges and an opportunity to be heard.

354-A:4 General Powers and Duties of the Chair. The chair shall serve as the chief executive officer of the commission. The chair shall promote the efficient transaction of its business and the orderly handling of complaints and other matters before the commission. The chair shall designate commissioners to investigate and commissioners to hold hearings pursuant to RSA 354-A:21 and shall fix the times and places of public hearings. In the event of the chair's absence or inability to act, the vice-chair or if no vice-chair has been designated, a commissioner designated by the chair shall act in the chair's stead. Otherwise a commissioner shall be designated by the governor to act as chair.

354-A:5 General Powers and Duties of the Commission. The commission shall have the following functions, powers and duties:

I. To establish and maintain its principal office in the city of Concord, and such other offices within the state as it may deem necessary.

II. To meet and function any place within the state.

III. To appoint such attorneys, clerks, and other employees and agents as it may deem necessary, fix their compensation within the limitations provided by law, and prescribe their duties.

IV. To obtain upon request and utilize the services of all governmental departments and agencies.

V. To adopt rules, under RSA 541-A suitable to carry out the provisions of this chapter, and the policies and practice of the commission in connection therewith.

VI. To receive, investigate and pass upon complaints alleging violations of this chapter.

VII. To hold hearings, subpoena witnesses, compel their attendance, administer oaths, take the testimony of persons under oath, and, in connection therewith, require the production for examination of any books or papers relating to any matter under investigation or in question before the commission. The commission may make rules as to the issuance of subpoenas by individual commissioners. No person shall be excused from attending and testifying or from producing books, records, correspondence, documents or other evidence in obedience to the subpoena of the commission, on the ground that the testimony or evidence required may tend to incriminate or subject such person to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which such person is compelled, after having claimed the privilege against self-incrimination, to testify or produce evidence, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

VIII. To create such advisory agencies and conciliation councils, local, regional or statewide, as in its judgment will aid in effectuating the purpose of this chapter, and the commission may empower them to study the problems of discrimination in all or specific fields of human relationships or in specific instances of discrimination, because of age, sex, race, color, marital status, familial status, or physical or mental disability, religious creed or national origin, in order to foster, through community effort or otherwise, good will, cooperation and conciliation among the groups and elements of the population of the state, and make recommendations to the commission for the development of policies and procedures in general and in specific instances, and for programs of formal and informal education which

the commission may recommend to the appropriate state agency. Such advisory agencies and conciliation councils shall be composed of representative citizens, serving without pay, but with reimbursement for actual and necessary traveling expenses; and the commission may make provision for technical clerical assistance to such agencies and councils and for the expenses of such assistance.

IX. To issue such publications and such results of investigations and research as in its judgment will tend to promote good will and minimize or eliminate discrimination because of age, sex, race, color, marital status, familial status, physical or mental disability, religious creed or national origin.

X. To render biennially to the governor and council a full written report of its activities and of its recommendations.

XI. To adopt an official seal.

XII. To accept and utilize for its purposes, functions and duties as set forth in this chapter public and private grants, gifts, donations and contributions of money and other assets and properties, real and personal, of all types and kinds, without limitations.

XIII. To formulate policies to effectuate the purposes of this chapter and make recommendations to agencies and officers or its political subdivisions in aid of such policies and purposes.

XIV. To utilize the services of the department of justice to obtain injunctive relief in state and federal courts.

Equal Employment Opportunity

354-A:6 Opportunity for Employment Without Discrimination a Civil Right. The opportunity to obtain employment without discrimination because of age, sex, race, creed, color, marital status, physical or mental disability or national origin is hereby recognized and declared to be a civil right.

354-A:7 Unlawful Discriminatory Practices. It shall be an unlawful discriminatory practice:

I. For an employer, because of the age, sex, race, color, marital status, physical or mental disability, religious creed, or national origin of any individual, to refuse to hire or employ or to bar or to discharge from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment, unless based upon a bona fide occupational qualification.

II. For a labor organization, because of the age, sex, race, color, marital status, physical or mental disability, creed, or national origin of any individual, to exclude from full membership rights or to expel from its membership such individual or to discriminate in any way

against any of its members or against any employer or any individual employed by an employer, unless based upon a bona fide occupational qualification.

III. For any employer or employment agency to print or circulate or to cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment or to make any inquiry or record in connection with employment, which expresses, directly or indirectly, any limitation, specification or discrimination as to age, sex, race, color, marital status, physical or mental disability, religious creed or national origin or any intent to make any such limitation, specification or discrimination in any way on the ground of age, sex, race, color, marital status, physical or mental disability, religious creed or national origin, unless based upon a bona fide occupational qualification; provided, however, that nothing in this chapter shall limit an employer after the offer of hire of an individual from inquiring into and keeping records of any existing or pre-existing physical or mental conditions.

IV. For any employee to be required, as a condition of employment, to retire upon or before reaching a specified predetermined chronological age, or after completion of a specified number of years of service unless such employee was elected or appointed for a specified term or required to retire pursuant to Pt. II, Art. 78 of the constitution of New Hampshire. It shall not be unlawful for an employer to:

(a) Establish a normal retirement age, based on chronological age or length of service or both, which may be used to govern eligibility for and accrual of pension or other retirement benefits; provided that such normal retirement age shall not be used to justify retirement of or failure to hire any individual; or

(b) Require any individual employee to retire on the basis of a finding that the employee can no longer meet such bona fide, reasonable standards of job performance as the employer may have established.

V. Harassment on the basis of sex constitutes unlawful sex discrimination. Unwelcome sexual advances, requests for sexual favors, and other verbal, non-verbal or physical conduct of a sexual nature constitutes sexual harassment when:

(a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

(b) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

(c) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

VI.(a) For the purposes of this chapter, the word "sex" includes pregnancy and medical conditions which result from pregnancy.

(b) An employer shall permit a female employee to take leave or absence for the period of temporary physical disability resulting from pregnancy, childbirth or related medical conditions. When the employee is physically able to return to work, her original job or a comparable position shall be made available to her by the employer unless business necessity makes this impossible or unreasonable.

(c) For all other employment related purposes, including receipt of benefits under fringe benefit programs, pregnancy, childbirth, and related medical conditions shall be considered temporary disabilities, and a female employee affected by pregnancy, childbirth, or related medical conditions shall be treated in the same manner as any employee affected by any other temporary disability.

Fair Housing

354-A:8 Equal Housing Opportunity Without Discrimination a Civil Right. The opportunity to obtain housing without discrimination because of age, sex, race, creed, color, marital status, familial status, physical or mental disability or national origin is hereby recognized and declared a civil right.

354-A:9 Definitions. For the purposes of this subdivision:

I. "Business of selling or renting dwellings" means:

(a) Participation, within the preceding 12 months, as principal in 3 or more transactions involving the sale or rental of any dwelling or commercial structure or any interest therein;

(b) Participation, within the preceding 12 months, as agent, other than in the sale of one's own personal residence, in providing sales or rental facilities or sales or rental services in 2 or more transactions involving the sale or rental of any dwelling or commercial structure or any interest therein; or

(c) Ownership of any dwelling designed or intended for occupancy by, or occupied by, 3 or more families.

II. "Residential real estate-related transaction" means any of the following:

(a) The making or purchasing of loans secured by residential real estate or providing other financial assistance for purchasing, constructing, improving, repairing, or maintaining a dwelling.

(b) The selling, brokering, or appraising of residential real property.

354-A:10 Unlawful Discriminatory Practices. It shall be an unlawful discriminatory practice for any person, being the owner, lessee, sublessee, assignee, managing agent or other person having the right to rent or lease a dwelling or commercial structure or being in the business of selling or renting dwellings or commercial structures:

I. To refuse to sell or rent after the receipt of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling or commercial structure to any person because of age, sex, race, color, marital status, familial status, physical or mental disability, religion or national origin.

II. To discriminate against any person in the terms, conditions, or privilege of sale or rental of a dwelling or commercial structure, or in the provision of services or facilities in connection therewith, because of age, sex, race, color, marital status, familial status, physical or mental disability, religion or national origin.

III. To make, print or publish, or cause to be made, printed or published, any notice, statement or advertisement, with respect to the sale or rental of a dwelling or commercial structure that indicates any preference, limitation, or discrimination based on age, sex, race, color, marital status, familial status, physical or mental disability, religion or national origin, or an intention to make any such preference, limitation or discrimination.

IV. To represent to any person because of age, sex, race, color, marital status, familial status, physical or mental disability, religion or national origin that any dwelling or commercial structure is not available for inspection, sale, or rental when such dwelling is in fact so available.

V. For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular age, sex, race, color, marital status, familial status, physical or mental disability, religion or national origin.

VI. To evict a tenant solely on the grounds that the person has acquired immune deficiency syndrome (AIDS) or is regarded to have acquired immune deficiency syndrome.

VII. For any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of age, race, color, religion, sex, disability, familial status, marital status, or national origin.

354-A:11 Interference, Coercion or Intimidation. It shall be an unlawful discriminatory act to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of

having exercised or enjoyed, or on account of having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this chapter.

354-A:12 Unlawful Housing Discrimination on the Basis of Disability. It shall be unlawful:

I. To discriminate in the sale or rental, or to otherwise make unavailable or deny a dwelling to any buyer or renter because of a disability of:

(a) That buyer or renter.

(b) A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available.

(c) Any person associated with that buyer or renter.

II. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a disability of:

(a) That buyer or renter.

(b) A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available.

(c) Any person associated with that person.

III. For purposes of this section, discrimination includes:

(a) A refusal to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises, except that, in the case of a rental, the landlord may where it is reasonable to do so condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.

(b) A refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling.

(c) In connection with the design and construction of covered multifamily dwellings for first occupancy after March 13, 1991, a failure to design and construct those dwelling in such a manner that:

(1) The public use and common use portions of such dwellings are readily accessible to and usable by persons with disabilities;

(2) All the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by disabled persons in wheelchairs; and

(3) All premises within such dwellings contain the features of adaptive design, including: an accessible route into and through the dwelling; light switches, electrical outlets, thermostats, and other environmental controls in accessible locations; reinforcements in

bathroom walls to allow later installation of grab bars; and usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

IV. Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically disabled people (commonly cited as "ANSI A117.1") suffices to satisfy the requirements of subparagraph III(c)(3).

V. Nothing in this section requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

354-A:13 Exemptions.

I. The provisions relating to unlawful housing discrimination shall not apply:

(a) To the sale or rental of any single-family house sold or rented by the owner, if such owner does not own more than one such single-family house at any one time, if such house is sold or rented:

(1) Without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person; and

(2) Without the publication, posting or mailing, after notice, of any advertising or written notice in violation of RSA 354-A:10, III above; but nothing in this paragraph shall prohibit the use of attorneys, escrow agents, abstracters, title companies, and other such professional assistance as necessary to perfect or transfer the title; or

(b) To the rental of a housing accommodation in a building which contains housing accommodations for not more than 3 families living independently of each other, if the owner or members of his family reside in one of such housing accommodations; or

(c) To the rental of a room or rooms in a housing accommodation with not more than 5 such rooms, if such rental is by the occupant of the housing accommodation or by the owner of the housing accommodation and the owner or members of the owner's family reside in such housing accommodation.

II. Nothing in this chapter shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from

giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin.

III. Nothing in this chapter shall prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodging which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

354-A:14 Number of Occupants. Nothing in this chapter limits the applicability of any reasonable local, state or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling.

354-A:15 Housing for Older Persons. No provisions in this chapter regarding familial status applies with respect to housing for older persons. Housing for older persons means housing:

I. Provided under any state or federal program that the Secretary of the United States Department of Housing and Urban Development determines is specifically designed and operated to assist elderly persons as defined in the state or federal program;

II. Intended for, and solely occupied by, persons 62 years of age or older; or

III. Intended and operated for occupancy by at least one person 55 years or older per unit.

IV. In determining whether housing qualifies as housing for persons 55 years or older, the commission shall adopt rules which require at least the following factors:

(a) The existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and service is not practicable, that such housing is necessary to provide important housing opportunities for older persons;

(b) That at least 80 percent of the units are occupied by at least one person 55 years of age or older per unit; and

(c) The publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

V. Housing shall not fail to meet the requirements for housing for older persons by reason of:

(a) Persons residing in such housing as of September 13, 1988, who do not meet the age requirements of paragraphs II or III, provided, that new occupants of such housing meet the age requirements of paragraph II or III.

(b) Unoccupied units, provided, that such units are reserved for occupancy by persons who meet the age requirements of paragraph II or III.

VI. Any rule concerning the exemption available under this section shall be consistent with federal law. In adopting such rules, the commission shall be guided by applicable federal regulations and interpretations concerning housing for older persons under 42 U.S.C. section 3607(b).

Public Accommodations

354-A:16 Equal Access to Public Accommodations a Civil Right. The opportunity for every individual to have equal access to places of public accommodation without discrimination because of age, sex, race, creed, color, marital status, physical or mental disability or national origin is hereby recognized and declared to be a civil right.

354-A:17 Unlawful Discriminatory Practices in Public Accommodations. It shall be an unlawful discriminatory practice for any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, because of the age, sex, race, creed, color, marital status, physical or mental disability or national origin of any person, directly or indirectly, to refuse, withhold from or deny to such person any of the accommodations, advantages, facilities or privileges thereof; or, directly or indirectly, to publish, circulate, issue, display, post or mail any written or printed communication, notice or advertisement to the effect that any of the accommodations, advantages, facilities and privileges of any such place shall be refused, withheld from or denied to any person on account of age, sex, race, creed, color, marital status, physical or mental disability or national origin; or that the patronage or custom thereat of any person belonging to or purporting to be of any particular age, sex, race, creed, color, marital status, physical or mental disability or national origin is unwelcome, objectionable or acceptable, desired or solicited.

Exemption

354-A:18 Exemption for Religious Organizations. Nothing contained in this chapter shall be construed to bar any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, which is operated, supervised or controlled by or in connection with a religious organization, from limiting admission to or giving preference to persons of the same religion or denomination or from making such selection as is calculated by such organization to promote the religious principles for which it is established or maintained.

Retaliation

354-A:19 Retaliation and Required Records. It shall be an unlawful discriminatory practice for any person engaged in any activity to which this chapter applies to discharge, expel, or otherwise retaliate or discriminate against any person because he has opposed any practices forbidden under this chapter or because he has filed a complaint, testified or assisted in any proceeding under this chapter.

Records

354-A:20 Required Records. It shall not be an unlawful discriminatory practice to record any data required by law, or by the rules and regulations of any state or federal agency, provided such records are kept in good faith for the purpose of complying with law, and are not used for the purpose of discrimination in violation of this chapter.

Complaint Procedures and Review

354-A:21 Procedure on Complaints.

I.(a) Any person claiming to be aggrieved by an unlawful discriminatory practice may make, sign and file with the commission a verified complaint in writing which shall state the name and address of the person, employer, labor organization, employment agency or public accommodation alleged to have committed the unlawful discriminatory practice complained of and which shall set forth the particulars thereof and contain such other information as may be required by the commission. The attorney general or one of the commissioners may, in like manner, make, sign, and file such complaint.

(b) In connection with the filing of such complaint, the attorney general is authorized to take proof, issue subpoenas and administer oaths in the manner provided in the civil practice law and rules. Any employer whose employees, or some of them, refuse or threaten to refuse to cooperate with the provisions of this chapter, may file with the commission a verified complaint asking for assistance by conciliation or other remedial action.

II.(a) After the filing of any complaint, one of the commissioners designated by the chair shall make, with the assistance of the commission's staff, prompt investigation in connection therewith; during the course of the investigation, the commission shall encourage the parties to resolve their differences through settlement negotiations; and if such commissioner shall determine after such investigation that probable cause exists for crediting the allegations of the complaint, the commissioner shall immediately endeavor to eliminate the unlawful discriminatory practice complained of by conference, conciliation and persuasion. The members of the commission and its staff shall not disclose what has occurred in the course of such en-

deavors, provided that the commission may publish the facts in the case of any complaint which has been dismissed, and the terms of conciliation when the complaint has been so disposed of.

(b) In case of failure to eliminate an unlawful discriminatory practice complained of, or in advance thereof, if, in the judgment of the commissioner making the investigation, circumstances so warrant, the commissioner shall cause to be issued and served in the name of the commission, a written notice, together with a copy of such complaint, as the same may have been amended, requiring the person, employer, labor organization or employment agency named in such complaint, hereinafter referred to as respondent, to answer charges of such complaint at a hearing before 3 members of the commission, designated by the chair and sitting as the commission, at a time and place to be fixed by the chair and specified in such notice. The place of any such hearing shall be the office of the commission or such other place as may be designated by it.

(c) The case in support of the complaint shall be presented before the commission by one of its attorneys or agents, and the commissioner who shall have previously made the investigation and caused the notice to be issued shall not participate in the hearing except as a witness, nor shall he participate in the subsequent deliberation of the commission in such case; and the aforesaid endeavors at conciliation shall not be received in evidence. The respondent shall file a written verified answer to the complaint and appear at such hearing in person or otherwise, with or without counsel, and submit testimony. In the discretion of the commission, the complainant may be allowed to intervene and present testimony in person or by counsel. The commission or the complainant shall have the power reasonably and fairly to amend any complaint, and the respondent shall have like power to amend his answer. The commission shall not be bound by the strict rules of evidence prevailing in courts of law or equity. The testimony taken at the hearing shall be under oath and transcribed at the request of any party. The cost of transcription shall be borne by the party requesting the transcript.

(d) If, upon all the evidence at the hearing, the commission shall find that a respondent has engaged in any unlawful discriminatory practice as defined in this chapter, the commission shall state its findings of fact and shall issue and cause to be served on such respondent an order requiring such respondent to cease and desist from such unlawful discriminatory practice and to take such affirmative action, including, but not limited to, hiring, reinstatement or upgrading of employees, with or without back pay, restoration to membership in any respondent labor organization, or the extension of full, equal and unsegregated accommodations, advantages, facilities and privileges to all persons, as in the judgment of the commis-

sion, will effectuate the purpose of this chapter and including a requirement for report of the manner of compliance. Such cease and desist orders for affirmative relief may be issued to operate prospectively.

(e) When issuing an order awarding back pay, the commission shall calculate the back pay award by determining the amount the complainant would have earned but for the unlawful discriminatory practice. The commission shall subtract from that amount any unemployment compensation or interim earnings received by the complainant for the time period covered by the back pay award.

(f) If upon all the evidence the commission shall find that a respondent has not engaged in any such unlawful discriminatory practice, the commission shall state its findings of fact and shall issue and cause to be served on the complainant an order dismissing the said complaint as to such respondent. A copy of its order shall be delivered in all cases to the attorney general, and such other public officers as the commission deems relevant or proper. The commission shall establish rules of practice to govern, expedite and effectuate the foregoing procedure and its own actions thereunder.

III. Any complaint filed pursuant to this section by an aggrieved person must be filed within 180 days after the alleged act of discrimination. Any complaint filed pursuant to this section by the attorney general or one of the commissioners must be so filed within 180 days after the alleged unlawful discriminatory practice.

IV. In administering this section, the commission shall be exempt from the provisions of RSA 541-A:14, II, but shall act on all matters before it under this section in as expeditious a manner as the law permits.

354-A:22 Judicial Review and Enforcement.

I. Any complainant, respondent or other person aggrieved by such order of the commission may obtain judicial review of the order, and the commission may obtain an order of court for its enforcement, in a proceeding as provided in this section. Such proceeding shall be brought in the superior court of the state within any county in which the unlawful practice which is the subject of the commission's order occurs or in which any person required in the order to cease and desist from an unlawful practice or to take other affirmative action resides or transacts business.

II. Such proceeding shall be initiated by the filing of a petition in such court, together with a written transcript of the record upon the hearing before the commission, and issuance and service of an order of notice as in proceedings in equity. The court shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony and proceedings set forth in such transcript an order or decree enforce-

ing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the commission, with full power to issue injunctions against any respondent and to punish for contempt of court. No objection that has not been urged before the commission shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.

III. Any party may move the court to remit the case to the commission in the interests of justice for the purpose of adducing additional specified and material evidence and seeking findings thereon, provided he shows reasonable grounds for the failure to adduce such evidence before the commission. The findings of the commission as to the facts shall be conclusive if supported by sufficient evidence on the record considered as a whole. All such proceedings shall be heard and determined by the court as expeditiously as possible and shall take precedence over all other matters before it, except matters of like nature. The jurisdiction of the superior court shall be exclusive and its final order or decree shall be subject to review by the supreme court in the same manner and form and with the same effect as in appeals from a final order or decree in proceedings in equity.

IV. The commission's copy of the testimony shall be available at all reasonable times to all parties for examination and for the purposes of judicial review of the order of the commission. The review shall be heard on the record without requirement of printing. The commission may appear in court by one of its attorneys. A proceeding under this section when instituted by any complainant, respondent or other person aggrieved must be instituted within 30 days after the service of the order of the commission.

Miscellaneous Provisions

354-A:23 Posting of Commission Notices. Every person, employer, employment agency, labor union, real estate agency and rental office subject to this chapter shall post in a conspicuous place or places on his premises a notice to be prepared or approved by the commission, which shall set forth excerpts of this chapter and such other relevant information which the commission deems necessary to explain the chapter. Any employer, employment agency, real estate agency, rental office or labor union refusing to comply with the provisions of this section shall be guilty of a violation if a natural person, or guilty of a misdemeanor if any other person.

354-A:24 Criminal Penalty. Any person, employer, labor organization or employment agency, who or which shall willfully resist, prevent, impede or interfere with the commission or any of its members or representatives in the performance of duty under RSA 354-A, or

shall willfully violate an order of the commission, shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person. Procedure for the review of the order shall not be deemed to be such willful conduct.

354-A:25 Construction. No provision of this chapter shall be deemed to supersede any other provision of law for the protection of minors or for the regulation of the employment of minors. The provisions of this chapter shall be construed liberally for the accomplishment of the purposes thereof. Nothing contained in this chapter shall be deemed to repeal any of the provisions of the civil rights law or any other law of this state relating to discrimination because of age, sex, race, creed, color, marital status, physical or mental disability or national origin; but, as to acts declared unlawful by this chapter the procedure provided in this chapter shall, while pending, be exclusive and the final determination therein shall exclude any other action, civil or criminal, based on the same grievance of the individual concerned. If such individual institutes any action based on such grievance without resorting to the procedure provided in this chapter, such person may not subsequently resort to the procedure in this chapter, provided, however, that nothing in this section shall prevent any individual from applying for or receiving unemployment compensation while the procedure provided for in this chapter is pending or after the procedure provided in this chapter has been concluded. This section shall not prevent the commission for human rights from investigating and acting upon a complaint of discrimination when the complainant has also filed a claim for unemployment compensation in which the issue of illegal discrimination is raised.

354-A:26 Severability. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provisions or applications, and to this end the provisions of this chapter are severable.

2 Effective Date. This act shall take effect upon its passage.

5342L

AMENDED ANALYSIS

This bill reorganizes RSA 354-A.

This bill prohibits discrimination based on familial status in regard to fair housing. This bill also prohibits unlawful housing discriminatory practices, and sexual harassment.

This bill also permits settlement attempts during the investigative phase and increases the number of commissioners from 5 to 7.

This bill was requested by the state commission for human rights.

Senator Bass moved to have HB 778-FN relative to the laws against discrimination laid on the table.

Adopted.

LAID ON THE TABLE

HB 778-FN relative to the laws against discrimination.

HB 778-FN is laid on the table.

HB 1105, an act relative to disclosure of campaign contributions by candidates for local and school district elections. Public Affairs committee. Ought to Pass with Amendment. Senator Bass for the committee.

5906L

Amendment to HB 1105

Amend the title of the bill by replacing it with the following:

AN ACT

relative to filing for more than one seat
on the same municipal board.

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Filing for more than One Seat on City Board. Amend RSA 44 by inserting after section 2 the following new section:

44:2-a Filing for City Offices. In accordance with the provisions of RSA 44:2, no candidate for a city office shall file for more than one seat on a city or school district board, commission, committee, or council.

2 New Section; Filing for Town Offices. Amend RSA 669 by inserting after section 17 the following new section:

669:17-a Filing Candidacy. No person shall file as a candidate for a town officer under the provisions of RSA 669:19, 20, or 42 for more than one seat on the same town or school district board, commission, committee, or council.

3 New Section; Filing for Village District Offices. Amend RSA 670 by inserting after section 4 the following new section:

670:4-a Filing Candidacy. No person shall file as a candidate for a village district office for more than one seat on the same village district or school district board, commission, committee, or council.

4 Application. This act shall in no way disqualify any municipal officer from any elective office to which he was elected prior to the effective date of this act.

5 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill prohibits municipal officers from filing to be a candidate for more than one seat on the same municipal or school district board, commission, committee, or council.

SENATOR BASS: Mr. President, this bill that the amendment substitutes for the content of the bill, an amendment which we passed on another bill which is on the table, which would prohibit individuals from filing for more than one office at the same time. Hopefully we will take that other bill off of the table and pass it as well, but this is just a means whereby a situation which exists in the town of Hudson and will be mitigated before the commencement of the filing period which is supposedly on the 25th of April. The committee urges your adoption of it's report of ought to pass with amendment.

SENATOR DISNARD: Senator Bass, does this mean that no one could serve on more than one board, I understand it is the filing with this . . .

SENATOR BASS: No, Senator Disnard, it means that you could not file more than once for the same seat on the same board. In order to essentially subvert the process.

Committee amendment adopted.

Ordered to third reading.

HB 1143-FN-A, an act increasing the per-brand registration fee for commercial feed and establishing an agricultural product and scale testing fund. Public Affairs committee. Ought to Pass. Senator Roberge for the committee.

SENATOR ROBERGE: Mr. President and members of the Senate, we heard testimony that animal feed was not being tested and people were not getting what they thought that they were paying for. The ingredients on the package did not meet up with the testing standards. The Commissioner of Agriculture came in and he felt that this was a consumer bill and that we should pass it.

SENATOR DISNARD: I rise in opposition to this bill. Once again, it appears that a department such as the Agriculture Department, through our funding process, does not have enough money to operate; so now, by 100 percent, increase both these fees by 100 percent. Mr. President, I think that it is about time that we get a look at

exactly what we are passing on, 100 percent fees to the consumer because the consumer is going to end up paying a portion of this and I would hope that this would be defeated.

Adopted.

Recess.

Out of recess.

SUBSTITUTE MOTION

Senator Disnard moved to substitute inexpedient to legislate for ought to pass.

Adopted.

HB 1143-FN-A is inexpedient to legislate.

HB 1167, an act relative to the police commission in the town of Conway. Public Affairs committee. Ought to Pass with Amendment. Senator Bass for the committee.

5909L

Amendment to HB 1167

Amend the title of the bill by replacing it with the following:

AN ACT

relative to the police commission in the town
of Conway and relative to the purchase
of out-of-state service by group II
retirement system members.

Amend the bill by replacing section 5 with the following:

5 Purchase of Out-of-State Service by Group II Members. Amend RSA 100-A:4-c, I(e) to read as follows:

(e) The amount of creditable service purchased shall be either the full length of service rendered in the other system or a [pro-rata portion of such service purchasable with the maximum amount which the member is permitted to withdraw from the other system] **portion of such service as the member may elect to purchase**; and
6 Effective Date.

I. Section 1 of this act shall take effect as provided in section 2.

II. The remainder of this act shall take effect upon its passage.

5909L

AMENDED ANALYSIS

This bill gives the town of Conway the option of allowing the police commission to appoint police personnel, including staff, in addition to the currently allowable police officers, constables and superior officers.

The bill also:

(1) Gives the town of Conway the option of voting to adopt the provisions of RSA 105-C, which is the general statutory authority for police commissions in towns, and which would supersede the existing session law for the Conway police commission.

(2) Allows towns to vote to compensate police commissioners.

This bill also allows group II retirement system members to purchase either the full length of service rendered in an out-of-state retirement system, or a portion of such service as the member may elect to purchase.

SENATOR BASS: Mr. President, HB 1167 allows the town of Conway to establish a police commission. The amendment relates to a sub-sub category of group II retirement which allows members entering the Retirement System from another state to buy a pro-rata portion of their retirement benefit. It has no fiscal impact whatsoever on the system. I urge the Senate to adopt the committee report of ought to pass as amended.

Committee amendment adopted.

Ordered to third reading.

HB 1190, an act creating a committee to study ways to clarify the relationship between the legislative bodies and governing bodies in towns, school districts and village districts operating under the town meeting form of government with respect to budgetary matters. Public Affairs committee. Ought to Pass. Senator Podles for the committee.

SENATOR PODLES: Mr. President, HB 1190 creates a committee to examine ways to clarify the relationship between the legislative bodies and governing bodies and towns, school districts and village districts, operating under the town meeting form of government with respect to the budgetary matters and to report by November 19, 1992. The committee urges adoption.

Adopted.

Ordered to third reading.

HB 1268, an act relative to inspection and permit fees set by local legislative bodies. Public Affairs committee. Ought to Pass with Amendment. Senator Bass for the committee.

5905L

Amendment to HB 1268

Amend RSA 673:16, II(b) as inserted by section 2 of the bill by replacing it with the following:

(b) Shall be paid out only for the purpose for which the expense was imposed upon the applicant.

SENATOR BASS: Mr. President, this bill puts into statute and makes legal, a practice that the cities and towns have been doing for many years now. When they receive fees for specific purposes, to be used for specific purposes, they place them in a special account so that they don't have to go through the appropriations process and town meeting in order to disperse them. The committee urges your adoption of the committee report of ought to pass with amendment.

Committee amendment adopted.

Ordered to third reading.

HB 1388, an act imposing a civil penalty in any proceeding in which a rule of a manufactured housing park owner is deemed unreasonable. Public Affairs committee. Ought to Pass with Amendment. Senator Roberge for the committee.

5885L

Amendment to HB 1388

Amend the title of the bill by replacing it with the following:

AN ACT

authorizing a civil penalty to be imposed in any proceeding
in which a rule of a manufactured housing park
owner is deemed unreasonable.

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Civil Penalty Added. Amend RSA 205-A by inserting after section 12 the following new section:

205-A:12-a Civil Penalty. In addition to other remedies allowed by law, a manufactured housing park owner may be assessed a civil penalty of \$500 and other reasonable damages for any violation of RSA 205-A:2.

2 Repeal. RSA 205-A:13, relative to unfair trade practice, is repealed.

3 Effective Date. This act shall take effect January 1, 1993.

AMENDED ANALYSIS

This bill authorizes a civil penalty to be imposed on a manufactured housing park owner if any rule made by the manufactured housing park owner is deemed unreasonable in a civil proceeding.

The bill also repeals RSA 205-A:13 which constitutes an unfair trade practice under RSA 358-A for rule violations by manufactured housing park owners.

SENATOR ROBERGE: Mr. President and members of the Senate, HB 1388 authorizes a civil penalty to be imposed in any proceeding in which a rule of manufactured housing park owner is deemed unreasonable. HB 1388 deals with manufactured housing parks and their rules. Under our current law, RSA 205-A, which deals with manufactured housing, all manufactured housing parks are required to have park rules. If tenants believe that the park owner has put forth a rule which they believe to be unreasonable, the tenant under RSA 205-A, can bring their complaint to the Attorney General's Office and the Attorney General's Office can under RSA 358-A, relative to the unfair trade practices, bring a park owner to court to try to assess a penalty to the park owner for an unfair or an unreasonable park rule. This current process doesn't work because the Attorney General's Office is under staffed and it is difficult to get park owners penalized because RSA 358-A, on an unfair trade practice is a complicated statute. The tenants want to add a new penalty provision to the statutes which are easier to enforce so that more park owners will be fined for unreasonable rules. The park owners agree to the new \$500 penalty; however, in order to clarify the law, so that there is not a reference to two methods of penalties, which would be confusing to the court, the current law is to be repealed. HB 1388 will now impose a civil penalty on a manufactured housing park owner if any rule made by the park owner is deemed unreasonable. When this bill came over from the House, the language in the bill stated that a judge shall impose up to a \$500 fine to a park owner for unreasonable or unfair rules. The Public Affairs committee amended the bill to state that a judge may impose a fine on a park owner. HB 1388 will repeal the current laws, making the assessment of penalties for unreasonable rules, taking the assessment of penalties for unreasonable rules, out of the unfair trade practice statute and add a new section to the law which states, that park owners may be assessed a civil penalty of \$500 for violations. It will be up to the discretion of a district court judge, whether or not to fine a park owner for unreasonable or unfair park rules.

SENATOR COLANTUONO: Senator Roberge, can you explain how the civil penalty will apply and whether it is intended to cover, a maximum of \$500 to cover a whole series of violations in the park, or whether it is \$500 per violation, or per day, a violation, or what? How is that going to be interpreted by a court?

SENATOR ROBERGE: The way that I read it, the judge would make that determination. What we are doing is we are just making it

easier to fine the park owners, because the Attorney General's Office won't be referring to the wide variety of rules, and the judge will have the discretion to fine.

Committee amendment adopted.

Ordered to third reading.

Senator Colantuono in opposition to HB 1388.

HB 1405, an act relative to appeal of tax assessments to the board of tax and land appeals and the superior court. Public Affairs committee. Ought to Pass. Senator Bass for the committee.

SENATOR BASS: Mr. President, HB 1405 straightens out a procedural problem whereby the Board of Land and Tax Appeals being so far behind in their caseload, a misunderstanding has developed as to whether or not an appeal is in effect for succeeding years after the appeal is granted. All that this bill does, is say that if the Board of Land and Tax Appeals accepts an appeal, that the appeal is in effect for that year and all subsequent tax years. The committee urges your adoption of its report of ought to pass.

Adopted.

Ordered to third reading.

HB 1434, an act requiring employers advertising for replacement workers during a strike to state such in any advertisement. Public Affairs committee. Inexpedient to Legislate. Senator Bass for the committee.

SENATOR BASS: Mr. President, the committee urges the Senate to adopt its motion of inexpedient to legislate. The committee certainly understands the concerns of employees who are out on strike being replaced by advertising that may or may not be considered to be deceptive. Now the individuals who are proposing this legislation came to the committee with a couple of examples of advertisements, which one appeared in a statewide newspaper. In that advertisement, it was clear that the language in the ad did not conform to the existing language of 275:11. As a result the committee feels that the additional language is really going to do nothing to change the status quo that the advertising will continue to occur. For that reason, the committee urges your adoption of its report of inexpedient to legislate.

Recess.

Out of recess.

SUBSTITUTE MOTION

Senator W. King moved to substitute ought to pass for inexpedient to legislate.

Senator Heath moved to have HB 1434 an act requiring employers advertising for replacement workers during a strike to state such in any advertisement laid on the table.

Division vote requested.

Yeas 9

Nays 10

Motion to table HB 1434 fails.

Question is on the substitute motion of ought to pass.

SENATOR W. KING: Members of the Senate, I will try to be brief. What you are receiving in front of you are two ads that were run by a company that had a strike going on. Let me just refer you to the larger of the two ads, that had a strike happening at their plant at the time. You will see if you look at this ad, that the ad is at best confusing, and at worse, deceptive. This bill merely says that you have to use the word, strike, if a strike is occurring, so that you don't bring people down to apply for jobs that do not want to interfere with a strike. All that we are asking is that the employer be required to say strike. Now, you may say that the current law covers it as Senator Bass has said, but the fact is, that when this occurrence happened, the Commissioner of Labor was called and he called the Attorney General; and in both instances, they were told that the law was too vague, and that they were able to run an ad like this, despite the fact that the intent of the law was very clear, if you look at it. It was clear that they were suppose to inform the public when they ran an ad if there was a strike or a job action of some sort occurring. This is merely a way of informing people. Nobody says what judgement you have to make if you read the ad and it says that a strike is occurring. If you are willing to cross the picket line, you can do that. All that is says is that it clarifies existing law that says if a company has a strike at the company, then when they run the ad that they have to run for jobs, they have to say that a strike exists at their plant. I ask that you vote for a motion of ought to pass on this so that we can clarify the law, which is not clear according to both the Attorney General and the Commissioner of Labor.

SENATOR BASS: Senator W. King, can I refer you to this thing that you passed out from the Manchester Union Leader? I am going to ask you a question about that if I could?

SENATOR W. KING: Sure.

SENATOR BASS: The existing law says that when you have an ad such as this, "it shall explicitly state that a strike lockout or labor disturbance exists". Those are the words, can you tell me where it says any of the three in that ad?

SENATOR W. KING: Senator Bass, you and I have gone around and around on this issue. The fact is, that it doesn't. You make, I think, a reasonable argument that this is already a violation of the law; however, the Attorney General says that he can't enforce the law, and if the Commissioner of Labor says that he can't enforce the law on this, it only makes sense for us to do what is common sense, and that is to put the word directly in the language of the law, so that this kind of sleazy stuff doesn't happen again.

SENATOR BASS: Senator King, you said that the reason why the parties that were reasonable here were unable to have this section, this ad enforced was because the law was too vague. Can you show me any written information from the Attorney General's Office indicating that he made a declaration that the law was too vague?

SENATOR W. KING: Senator Bass, the Commissioner of Labor has informed and has informed other members of the Senate that in fact that if they called the Attorney General's Office, that the Attorney General's Office said they could not enforce the law as it was currently written. I believe that you all have a letter from the Commissioner of Labor that states that he can't enforce the law as it is currently written, and all that we want to do is clarify it. However, let me make one last point in reference to your question. Is there a letter anywhere around from the Commissioner of Labor?

SENATOR BASS: Did anyone get a letter from the Commissioner of Labor?

SENATOR W. KING: It went into peoples mail-slots. Let me make one last point in reference to your letter. I think that it is important to have on the public record that the disagreement that we have here is not a disagreement over whether this is a sleazy act. I think that most of us agree that this is sleazy. Senator Bass, you have said that the law already covers it and that the Commissioner of Labor should have enforced it? If that is the case, let us have that on record as well, during the discussion here so that we know one way or the other, that this sort of thing should not be wrong, that nobody who votes on any side of the issue here is voting to allow this kind of an act to be run in newspapers in the state of New Hampshire. I think that it is important to say that, but I believe that we need to clarify the law to make it clear so that the Attorney General and the Commissioner of Labor will enforce the law when this kind of thing is done in the future.

SENATOR HUMPHREY: Senator W. King, why are either one of these or both of these, sleazy ads?

SENATOR W. KING: Senator Humphrey, because the law states that they are suppose to let people know that there is a job action of some sort that has ocured. This ad, I believe, is written in a way to confuse people who are likely to be applying for those jobs.

SENATOR COLANTUONO: Senator King, I am just looking at the bill in terms of draftsmanship and what it tries to do. The original language of the current law gives you three options in your advertising. You can use the word strike, you can use the word lockout or you can use the word other labor disturbance. This bill simply requires now that you use the word strike, so why aren't we just amending the original language to take out the options of lockout and other labor disturbance?

SENATOR W. KING: All that it says is that if a strike exists, that you have to use the word strike in the ad.

SENATOR HEATH: I am considerably disturbed over Senator Kings remarks. First of all, to suggest that these ads are sleazy is to insinuate an ignorant person who can't understand this, and I don't think that the workers of the state of New Hampshire are that ignorant that they can't read this ad and know perfectly well that there is a job action, it is pretty damn clear. Secondly, I am surprised that Senator King is willing to throw away a portion of the Constitution that easily is in the freedom of speech aspect. Why cannot labor, if they object to this, buy their own damn ads and put in whatever they want. You expand freedom of speech, you don't contract it. Finally, I don't understand how anybody can come before this body and claim to have tried to help stimulate the economy and claim to have tried to help business and so on, and then do something like this bill would do to business in determining what they put in their ad to get their business restarted. I am just astounded that Senator King would throw away his values that he seemed to have on business on the Constitution, on the first amendment, and on the feeling of the workers of this state that they would be too ignorant to understand this. I just am stunned.

SENATOR BASS: Mr. President, Senator King has made some cogent remarks, and I just want to respond to a couple of them. By referring you to the bill, I would point out that the current statute says that if you have a strike, lockout or other trouble, and they advertise for replacements, he, meaning the employer, shall plainly and explicitly state in such advertisements that a strike, lockout or labor disturbance exists. It is as clear as can be. What this amend-

ment does is repeat something that is already written in the statute because in a particular instance, the parties failed to get the Labor Department to adequately enforce what exists already. I do not object to the content of chapter 275:11, but if we pass this bill with the amendment, the net effect will be zero: nothing else will happen, there will be no more enforcement, the ads can still go out without the words strike written it, because clearly what Senator King has demonstrated so ably to the Senate, is that there is no enforcement of the existing statute. We can't as a body come everytime that we have a problem where somebody can't get adequate administrative remedy, come crying to the legislature for a remedy because we will not solve the problem that way. By killing this bill and sending a message to the executive that they ought to enforce the existing statutes will be much better off in the long run.

SENATOR HUMPHREY: Like Senator Heath, I took umbrage at the use of the word sleazy in connection with this ad, I think that is an unwarranted assault, an unwarranted insult, not only against the parties who paid for that ad, but the great institution which ran them.

Senator Blaisdell moved the question.

Adopted.

Recess.

Out of recess.

Question is on the substitute motion of ought to pass.

A roll call was requested by Senator Heath.

Seconded by Senator Bass.

Senators Nelson and Pressly are excused.

The following Senators voted Yes: W. King, Fraser, Hough, Disnard, Blaisdell, McLane, J. King, St. Jean, Shaheen, Hollingworth, Cohen.

The following Senators voted No: Heath, Currier, Roberge, Bass, Colantuono, Podles, Humphrey, Russman, Delahunty.

Yeas 11

Nays 9

Motion of ought to pass is adopted.

Ordered to third reading.

HCR 20, a resolution urging the federal government to establish a post office in the town of Lee. Public Affairs committee. Ought to Pass. Senator Bass for the committee.

SENATOR BASS: Mr. President, this resolution urges the federal government to establish a post office in the town of Lee. The committee urges your adoption of it's report of ought to pass.

Adopted.

Ordered to third reading.

Recess.

Senator Dupont in the Chair.

INTRODUCTION OF GUEST

SENATOR NELSON: It is one of the greatest honors and pleasures that I ever had in my whole life, to make this introduction, but I am going to savor the moment and defer to Senator Ralph Hough, who insists.

SENATOR HOUGH: Thank you, Senator Nelson. Colleagues, it is the spirit of close cooperation that Senator Nelson has deferred to me, and I appreciate that. Senator Disnard, I am sure that you will allow me to introduce to this body, the Congressman of the Second District who is an outstanding Congressman, he is an individual whose office works very closely with all of us, meet Suzy Hough's friend, Congressman Dick Swett.

CONGRESSMAN DICK SWETT: I understand that there is an opening for legal counsel to the Senate. I have to admit that I am not a registered attorney, my wife is, and she will be the one that I confer with when I go home to do the work at night after the day, but I think more than anybody else, I fit the bill on replacing your previous Senate counsel, just by looks alone. I realize that I will have to part my hair on the other side, and you can even call me by his formal name. That is something that as we head into this political season, with my future uncertain, I am here making my application, and I look forward to serving you. You never know, I could sneak in at anytime, you will have to look twice to decide who it really is. But seriously, it is a pleasure to be here, and I will just reiterate what I said over on the other side of the wall. I have said this to many of the people here, that this is a small state, this is a small community, and the beauties of that scale really is based on our ability to work together. It certainly is a pleasure to be able to be introduced by both the Democratic side of the aisle and the Republican side of the aisle, and I am indebted to both Senator Nelson and Senator Hough for their eloquence in their tribute, but most importantly, I am indebted to them for their symbol, because this is really how we can get work done in this state, is if we decide that the most important thing is to find what the problems are and more importantly, to determine that

we are going to resolve those problems with real solutions. That is something that my office is dedicated to and I hope that I can be of help to each and every one of you in helping you resolve the issues that you come before and have to grapple with on a day in, day out basis. That means likewise, that I hope that I can come to you for help when I am running up against things that are difficult to deal with. Most importantly, I just feel honored to be able to speak and to say hello. I wish you the best of success in all of your work, and I look forward to being able to work with you for the years ahead. Thank you very much.

Recess.

Out of recess.

RECONSIDERATION

Senator W. King moved reconsideration on SB 452 redistricting certain district courts.

Adopted.

Senator Podles moved that we non concur and request a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference.

SENATORS: E. Podles, B. Hollingworth, R. Russman.

SENATOR HUMPHREY: I would like to offer a resolution and I would like to have the Senate consider it this afternoon. Mr. President and members of the Senate, if Senators will recall a few weeks ago a debate over a bill authored by this Senator, SB 419, which proposed to create what I would call parental choice in education. Senator Disnard, our esteemed colleague, said that he had some questions about the constitutionality. This approach to the matter, so it seemed to be the consensus that we ought to find out from the ultimate authority, the Union Leader, just kidding, the Supreme Court. This resolution requests an opinion from the court on these matters.

Senator Humphrey offered a Resolution.

SR 5

STATE OF NEW HAMPSHIRE

In the year of Our Lord one thousand
nine hundred and ninety-two

A RESOLUTION

requesting an opinion of the justices concerning the constitutionality of SB 419-FN.

Whereas, there is pending in the senate, Senate Bill 419-FN, "An Act relative to a parental choice in education program;" and

Whereas, doubt has arisen as to the constitutionality of the provisions of said bill; and

Whereas, it is important that the question of the constitutionality of said provisions should be settled in advance of the enactment of SB 419-FN; now, therefore, be it

Resolved by the Senate:

That the Justices of the Supreme Court be respectfully requested to give their opinion on the following questions of law:

1. Would the provisions in RSA 194:61 and RSA 194:62 which allow a parent or guardian to send a child to "any state approved school," which could include a sectarian school, and which require the sending school to pay up to 75 percent of the resident sending school's tuition to the new school, violate Part I, Article 6 of the New Hampshire Constitution, which provides that "no person shall ever be compelled to pay towards the support of the schools of any sect or denomination"?

2. Would the provision in RSA 194:62, which requires the school district in which the student is a resident to pay up to 75 percent of the resident sending school's tuition to the new school, violate Part I, Article 12 or Part II, Article 5 of the New Hampshire Constitution, which require that protection and taxation be reciprocal and that taxes may be levied only for certain allowable public purposes, by allowing publicly raised tax money to be used to support (a) a private school in the same or a different district or (b) a public school in a district other than the district in which the taxes were raised?

That the clerk of the senate transmit copies of this resolution and copies of SB 419-FN to the justices of the New Hampshire Supreme Court.

SENATOR DISNARD: Mr. President and members of the Senate, I support SR 5. I was aware, and I assume all members of the Senate were aware, that the SB 419 was tabled for the specific purpose of hoping to attain a Supreme Court decision. Senator Humphrey is right, I and others, have used the past court cases in New Hampshire as one of the reasons for not supporting the choice in education. I strongly agree with Senator Humphrey, we need an up-to-date opinion from the Supreme Court, and I hope that we will all support SR 5.

SENATOR MCLANE: I rise in strong opposition to this amendment. The reason is, is that I am not in favor of so-called, choice in education, and I don't think a majority of the people are. The problem is not with the constitutionality of the issue, the problem is who pays? Frankly, there hasn't been a single community in New Hampshire that is willing to pay for religious schools, for private schools, for those people that do not attend their own classes. There was a community, Epsom, that obviously considered it. There was a great deal of money that would have been paid out immediately to those people who have the money to send their children to go to private school. It isn't a question of whether it is constitutional or not, the question is: whether the people have the interest and the will in paying public money for private education. I am so strongly opposed to it, that I have no interest in taking the time of our court for an issue which is a very conservative issue, that it has had its day on both the national scale and in New Hampshire, and I don't think that there is very many votes for the concept.

SENATOR HEATH: I rise in strong support of this. I do not understand Senator McLane's reservation. First of all, she talks about choice and then a choice where one plan, choice doesn't need to be vouchers, it can be target schools where they have a science school that kids can pick between the science school, and performing arts school, and so on like they do in Harlem. It can be the inner city voucher plan that Polly Williams did in Minnesota, where children can pick the school that they go to which answers a question of bus-ing, because the children and the parents get to decide which school in the city district that they go to. Choice does not necessarily include private school. Choice simply means as a generic that the children's parents get some input into the kind and type and thrust of the education that they get. So to be against choice is to be against half of the ideas in education that are circulating today, all of them different, being supported by people as different as Polly Williams who was a inner city black liberal legislator and me, a white conservative male, New Englander. I mean, there are a lot of people involved in choice. Choice is not a generic. This is a question that people like Senator McLane and herself have raised, the religious issue. There is no separation of church and state, wall of separation, that is a doctrine, there is nothing in the constitution except that Congress shall not establish a religion. The question that this is essentially asking is that does this establish a religion? Well, of course it doesn't establish, it doesn't reach that level. But let's find out. When have we ever been against knowledge? Why are we, are we afraid of the answer? I think that Senator McLane may be afraid of the answer that she may get back and that is why she is in opposi-

tion to this. I would urge its passage, and I think that the fact that Senator Disnard and Senator Humphrey have come together on this, is pretty good evidence that this is a good direction to go.

SENATOR W. KING: After my friend, Senator Heath, beat up on me this morning, I should relish the opportunity to stand up and do the same to him, but I am going to stand next to him on his side. I think that we should ask the Supreme Court this question. There are a lot of other questions that will have to be asked afterwards. I agree with Senator Heath when he said that this is neither a liberal nor a conservative issue, that there are advocates of choice on all different sides of the political ideological spectrum, and that it is something that is worth us educating ourselves about. We ought to put every option for improving public education on the table and the best way that we can do that is to make sure first of all that the question of constitutionality is answered, then we will have to ask ourselves some serious questions about how we make sure that a poor kid in a neighborhood in New Hampshire, in a poor town, gets the same kind of opportunities as a wealthy kid. That also means bus travel or travel of some sort of means. A lot of other issues that we are going to have to address before choice becomes any kind of a reality for this Senator, but I think that we need to get this question out of the way before we can really move ahead on it.

SENATOR OLESON: I rise in opposition to the proposed resolution. I think it is merely an attack on our public school system. I think it is an attack on that our forefather saw that there be free public education, and it boils down to that we have a system now, if they don't want to go to the public schools, at least in my area, we have several that they can attend. The only thing is that they want the public to pay for what they want. They have the choice at the present time, if they aren't happy with the present public school system, they can exercise that choice. I don't think that we have to go to the Supreme Court to get their opinion. I think that this would be their opinion anyways. Thank you.

A roll call was requested by Senator Humphrey.

Seconded by Senator Roberge.

The following Senators voted Yes: W. King, Heath, Fraser, Dupont, Currier, Disnard, Roberge, Blaisdell, Bass, Nelson, Colantuono, Podles, Humphrey, J. King, Russman, Shaheen, Delahunty, Hollingworth, Cohen.

The following Senators voted No: Oleson, McLane, St. Jean.

Yeas 19

Nays 3

Adopted.

TAKEN OFF THE TABLE

Senator Bass moved to have HB 1202 an act permitting municipalities that have biennial municipal elections to submit charter changes for approval at biennial state elections taken off the table.

Adopted.

HB 1202, an act permitting municipalities that have biennial municipal elections to submit charter changes for approval at biennial state elections. Public Affairs committee. Ought to pass with amendment. Senator Bass for the committee.

5650L

Amendment to HB 1202

Amend the title of the bill by replacing it with the following:

AN ACT

permitting municipalities that have biennial municipal elections to submit charter changes for approval at biennial state elections, relative to filing for more than one seat on the same municipal board, and relative to the authority of the Concord charter commission.

Amend the bill by replacing all after the enacting clause with the following:

1 Charter Commission, Membership, Procedure; Municipalities with Biennial Elections. Amend RSA 49-B:4, VI to read as follows:

VI. Upon the filing of the final report, the municipal officers shall order the proposed new charter or charter revision to be submitted to the voters at the next regular municipal election **or, in the case of municipalities with biennial elections, at the next regular state biennial election** held at least 60 days after the filing of the final report.

2 Charter Amendments, Procedure; Municipalities with Biennial Elections. Amend the introductory paragraph of RSA 49-B:5, I to read as follows:

I. The municipal officers may determine that amendments to the municipal charter are necessary and, by order, provide for notice and hearing on them in the same manner as provided in RSA 49-B:5, IV(a). Within 7 days after the hearing, the municipal officers may order the proposed amendment to be placed on a ballot at the next regular municipal election **or, in the case of municipalities with biennial elections, at the next regular state biennial election** held not less than 60 days after the order is passed; or they may order a special election to be held not less than 60 days from the date of the order for the purpose of voting on the proposed amendments.

3 Charter Amendments Procedure; Municipalities with Biennial Elections. Amend RSA 49-B:5, IV(c) to read as follows:

(c) On all petitions filed more than 120 days prior to the end of the current municipal year, the municipal officers shall order the proposed amendment to be submitted to the voters at the next regular municipal election **or, in the case of municipalities with biennial elections, at the next regular state biennial election** held after the filing of the final report. Unrelated charter amendments shall be submitted to the voters as separate questions.

4 New Section; Filing for more than One Seat on City Board. Amend RSA 44 by inserting after section 2 the following new section:

44:2-a Filing for City Offices. In accordance with the provisions of RSA 44:2, no candidate for a city office shall file for more than one seat on a city or school district board, commission, committee, or council.

5 New Section; Filing for Town Offices. Amend RSA 669 by inserting after section 17 the following new section:

669:17-a Filing Candidacy. No person shall file as a candidate for a town officer under the provisions of RSA 669:19, 20, or 42 for more than one seat on the same town or school district board, commission, committee, or council.

6 New Section; Filing for Village District Offices. Amend RSA 670 by inserting after section 4 the following new section:

670:4-a Filing Candidacy. No person shall file as a candidate for a village district office for more than one seat on the same village district or school district board, commission, committee, or council.

7 Application. Sections 4-6 of this act shall in no way disqualify any municipal officer from any elective office to which he was elected prior to the effective date of this act.

8 Authority of Concord Charter Commission. Notwithstanding any provision of RSA 49-B or RSA 49-C to the contrary, the charter commission of the city of Concord in existence on the effective date of this act is authorized to include in its report and submittal to the voters:

I. The opportunity to choose between the alternate plans of government specified in RSA 49-C;

II. The opportunity to elect a mayor-at-large under the council-manager plan who shall be counted to make a quorum and vote as a member of the elected body;

III. The opportunity to provide for a definite term for the city manager under the council-manager plan; and

IV. Transition measures associated with the change in the number of wards approved by the voters at the special election of February 18, 1992.

9 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill allows municipalities that have biennial municipal elections to submit charter changes for approval at biennial state elections.

The bill prohibits municipal officers from filing to be a candidate for more than one seat on the same municipal or school district board, commission, committee, or council.

The bill also authorizes the Concord charter commission to submit to the voters certain provisions relating to the form of government and transition measures relating to the city wards.

SENATOR BASS: The committee amendment is the exact same amendment that we just voted for as a substitute amendment for HB 1105 earlier today. The body of the bill which I discussed in my earlier committee report, deals with the question of being able to have a charter commission recommendation vote on a regular biennial election instead of a municipal election for cities, thereby saving cities in the state a years worth of time in the process. The committee urges your adoption of the committees report of ought to pass as amended.

SENATOR MCLANE: Senator Bass, does this include the section about the Concord vote that is going to come up having to do with charter revision?

SENATOR BASS: It does.

SENATOR MCLANE: Good. Thank you.

Committee amendment adopted.

Ordered to third reading.

TAKEN OFF THE TABLE

Senator Bass moved to have HB 1308 an act relative to technical changes to the municipal charter laws taken off the table.

Adopted.

HB 1308, an act relative to technical changes to the municipal charter laws. Interim Study. Senator Bass for the committee.

Question is on the committee report of interim study.

Committee report of interim study fails.

Senator Bass moved ought to pass.

Adopted.

SENATOR BASS: Mr. President, I would like to draw your attention, if you would, to amendment #5887L. This is an amendment that has been worked out by me and the sponsors of this bill, and the New Hampshire Municipal Association. As you may recall, my report in the Senate about three weeks or so ago, there was considerable confusion in the committee amongst the sponsors whether all of the date changes that they specified would work out properly. In addition to that, Representative Sytek wanted to make an amendment that would allow us to go back to the old system of electing charter commission members and deciding whether we wanted to have a charter commission on the same ballot, which I had serious reservations about. As a result of discussions that I have had since that time, we have been able to work out the numerical problems in the days, and we have also been able to take care of Representative Sytek's problem in the town of Salem, by allowing the town of Salem to have an election next year for charter commission members, and to have a charter commission on the same ballot. So we urge the adoption of the floor amendment and adoption of the report as ought to pass as amended.

Senator Bass offered a floor amendment.

5887L

Floor Amendment to HB 1308

Amend the title of the bill by replacing it with the following:

AN ACT

relative to technical changes to the municipal charter laws
and relative to the establishment of a charter
commission in the town of Salem.

Amend the bill by replacing all after section 2 with the following:

3 Modifying Time Frame for Certain Action on Charter Changes.

Amend RSA 49-B:4, V and VI to read as follows:

V. Within 14 days after its organizational meeting, the charter commission shall hold a public meeting for the purpose of receiving information, views, comments and other pertinent material relative

to its functions. Within [6 months] **180 days** after its election, the charter commission shall prepare a preliminary report including the text of the charter or charter revision which the commission intends shall be submitted to the voters and any explanatory information the commission deems desirable, shall cause such report to be printed and circulated throughout the municipality, and shall provide sufficient copies of the preliminary report to the municipal clerk to permit its distribution to each voter requesting it. Within [10 months] **225 days** after its election, the charter commission shall submit to the municipal officers its final report, which shall include the full text and explanation of the proposed new charter or charter revision, such comments as the commission deems desirable, an indication of the major differences between any current and proposed charters and a written opinion by an attorney admitted to the bar of this state that the proposed charter or charter revision is not in conflict with the constitution or the general laws. Minority reports if filed shall not exceed 1,000 words. All public hearings before a charter commission shall be held within the municipality at such times and places as may be specified in a notice published at least [10] **7** days prior to the hearing in a newspaper having general circulation in the municipality, but hearings may be adjourned from time to time without further published notice.

VI. Upon the filing of the final report, the municipal officers shall order the proposed new charter or charter revision to be submitted to the voters at the next regular municipal election **or, in the case of municipalities with biennial elections, at the next regular state biennial election** held at least [60] **45** days after the filing of the final report.

4 Modifying Time Frame for Filing Preliminary Reports. Amend RSA 49-B:5-a, I to read as follows:

I. Within 10 days of the filing of the [final] **preliminary** report relative to any new municipal charter, charter revision, or charter amendment, the municipal clerk shall file a certified copy of said report with the secretary of state, the attorney general and the commissioner of the department of revenue administration. Within 14 days of the receipt of said report [with] **by** the secretary of state, attorney general and commissioner of the department of revenue administration, they shall review the proposed charter, charter revision, or charter amendment to insure that it is consistent with the general laws of this state.

5 Town of Salem. Notwithstanding any other provision of law, the town of Salem may vote, at an annual or special town meeting, otherwise warned and conducted in compliance with applicable law and held on or before March 31, 1993, on both the question of establishing a charter commission and the election of 9 charter commission members.

6 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill removes obsolete references to appointed members of charter commissions as current law now provides that charter commission members be elected.

The bill also condenses the time frame for certain aspects of the charter drafting and review process to allow changes to be completed within one year.

The bill also allows the town of Salem to vote on both the question to establish a charter commission and to elect the charter commission members at an annual or special town meeting held on or before March 31, 1993.

Floor amendment adopted.

Ordered to third reading.

TAKEN OFF THE TABLE

Senator McLane moved to have HB 1182 an act authorizing the division of human services to establish a system to recoup child support payments made in error, clarifying confidentiality of certain information and allowing the division to close certain cases taken off the table.

Adopted.

HB 1182, an act authorizing the division of human services to establish a system to recoup child support payments made in error, clarifying confidentiality of certain information and allowing the division to close certain cases.

5758L

Amendment to HB 1182-FN

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; Rulemaking Authorized; System of Recouping Child Support Payments Made in Error. Amend RSA 161:4-a by inserting after paragraph VIII the following new paragraph:

VIII-a. The establishment, maintenance, and direction of a reasonable and fair system of recouping payments made in error from child support collected pursuant to RSA 161:2, XVI, or other means as allowed by law.

2 Information Confidentiality; Reference Clarified. Amend RSA 161-B:7, III to read as follows:

III. Any records established or information collected pursuant to the provisions of this chapter shall be made available only to the director and the attorney general and their authorized designees, attorneys **employed by the office of child support, attorneys responsible for the administration of RSA 546, the client or the client's authorized representative**, and courts or agencies in other states engaged in the enforcement of support of minor children as authorized by **federal law or the rules [and regulations] of the division**[, and]. Such records and information shall be available **and used only for purposes directly connected with establishment, enforcement, or modification of child support and the administration of this chapter. The records and information made available to the client or the client's authorized representative shall not include information provided to the division that is prohibited from release by federal law, state statute, common law, or by contract or agreement between the division and another entity if such contract or agreement prohibits release of such information.**

3 Information Confidentiality; Reference Clarified. RSA 161-C:3-a, IV is repealed and reenacted to read as follows:

IV. Any records established or information collected pursuant to the provisions of this chapter shall be made available only to the director and the attorney general and their authorized designees, attorneys employed by the office of child support, attorneys responsible for the administration of RSA 546, the client or the client's authorized representative and courts or agencies in other states engaged in the enforcement of support of minor children as authorized by the rules of the division. Such records and information shall be available and used only for purposes directly connected with establishment, enforcement or modification of child support and the administration of this chapter. The records and information made available to the client or the client's authorized representative shall not include information provided to the division that is prohibited from release by federal law, state statute, common law, or by contract or agreement between the division and another entity if such contract or agreement prohibits release of such information.

4 Authorization Granted to Close Certain Cases. Amend RSA 161-B:3, II to read as follows:

II. The director may accept applications for support enforcement services on behalf of persons who are not recipients of public

assistance and may take action as he deems appropriate to establish or enforce support obligations against persons owing a duty to pay support. Action may be taken under this chapter, the abandonment of nonsupport statutes, or other appropriate statutes of this state, including but not limited to remedies established in RSA 161-C, to establish and enforce said support obligations, **provided, however, that if such child support obligation has been terminated by court order or by operation of law the director may close the case in accordance with the criteria set out in federal statutes and regulations.**

5 Effective Date. This act shall take effect 60 days after its passage.

SENATOR MCLANE: Yes, the committee amendment which is #5913L is a correction that was in the original amendment in which they talked about common law instead of state case law. It also makes possible a cap of 20 percent in that very rare instance for child support, not of welfare mothers, but of those others. About half of the child support payments are collected for people who are not on welfare, but very low income.

SENATOR DUPONT (In the Chair): Senator, if I could. You are referring to your floor amendment, and I believe that we must deal and adopt the committee amendment first. Are you willing to speak to the committee amendment or would you like someone else to speak?

SENATOR MCLANE: I would happy to speak for the committee. The committee amendment deals with the child support payment division. It clarifies certain aspects of that program which include the confidentiality of those records. The first amendment dealt with confidentiality, it was an agreed upon amendment from the committee. The second amendment corrects a part that was made in the drafting in which it referred to common law instead of state case law. The third part sets up a child support payment error reserve fund. Presently, but rarely, particularly in the case of the IRS, a husband could get a large payment from the IRS for perhaps a mistake in his income tax. That payment would then be passed on immediately to his former wife and children. Three or four months later, you might find that that had been an error on the part of the IRS. Presently that mother with young children has to pay all of that money back immediately, and you can well imagine the suffering that that would cause. What we have done is set up a rule that only 20 percent of that mistake in payment could be recovered at one time, and so therefore it would probably take about five months for her to pay

back money that she had gotten because of a mistake in the IRS. This bill has been through our committee. It obviously will have to go back to the House for their concurrence, but we would urge you to pass this amendment as it is before you.

Committee amendment is adopted.

Senator McLane offered a floor amendment.

5913L

Floor Amendment to HB 1182

Amend the title of the bill by replacing it with the following:

AN ACT

authorizing the division of human services to establish a system to recoup child support payments made in error and to establish a child support payment error reserve fund, clarifying confidentiality of certain information and allowing the division to close certain cases.

Amend the bill by replacing sections 1-3 with the following:

1 New Paragraphs; Rulemaking Authorized; System of Recouping Child Support Payments Made in Error. Amend RSA 161:4-a by inserting after paragraph VIII the following new paragraph:

VIII-a. The establishment, maintenance, and direction of a reasonable and fair system of recouping payments made in error from child support collected pursuant to RSA 161:2, XVI, or other means as allowed by law.

VIII-b. The establishment of a schedule of repayments by custodial parents who are the recipients of child support overpayments. These repayments shall not exceed 20 percent of the custodial parents' monthly child support income, or \$50 a month, whichever is less.

2 Information Confidentiality; Reference Clarified. Amend RSA 161-B:7, III to read as follows:

III. Any records established or information collected pursuant to the provisions of this chapter shall be made available only to the director and the attorney general and their authorized designees, **attorneys employed by the office of child support, attorneys responsible for the administration of RSA 546, the client or the client's authorized representative**, and courts or agencies in other states engaged in the enforcement of support of minor children as authorized by **federal law or** the rules [and regulations] of the division[, and]. Such records and information shall be available **and used**

only for purposes directly connected with **establishment, enforcement, or modification of child support** and the administration of this chapter. **The records and information made available to the client or the client's authorized representative shall not include information provided to the division that is prohibited from release by federal law, state statute, state case law, or by contract or agreement between the division and another entity if such contract or agreement prohibits release of such information.**

3 Information Confidentiality; Reference Clarified. RSA 161-C:3-a, IV is repealed and reenacted to read as follows:

IV. Any records established or information collected pursuant to the provisions of this chapter shall be made available only to the director and the attorney general and their authorized designees, attorneys employed by the office of child support, attorneys responsible for the administration of RSA 546, the client or the client's authorized representative and courts or agencies in other states engaged in the enforcement of support of minor children as authorized by the rules of the division. Such records and information shall be available and used only for purposes directly connected with establishment, enforcement or modification of child support and the administration of this chapter. The records and information made available to the client or the client's authorized representative shall not include information provided to the division that is prohibited from release by federal law, state statute, state case law, or by contract or agreement between the division and another entity if such contract or agreement prohibits release of such information.

Amend the bill by inserting after section 4 the following and renumbering the original sections 5 to read as 6.

5 New Paragraph; Division of Human Services; Duty Added. Amend RSA 161:2 by inserting after paragraph XVII the following new paragraph:

XVIII. Establish a child support payment error reserve fund from a portion of the monies collected from child support obligors. The purpose of this fund shall be to cover the cost of correcting payment errors during the period in which child support overpayments are being recouped.

AMENDED ANALYSIS

This bill grants the division of human services rulemaking authority to establish and operate a system for recouping child support payments made in error.

This bill authorizes the division of human services to establish a child support payment error reserve fund.

This bill clarifies the confidentiality of certain information held by the division.

This bill also prohibits the director of the division of human services from seeking to enforce a child support obligation which has been terminated by court order or by operation of law for more than 5 years.

This bill is a request of the division of human services, department of health and human services.

Floor amendment adopted.

Ordered to third reading.

TAKEN OFF THE TABLE

Senator Podles moved to have HCR 28 a resolution urging the federal government to restore full funding for prescription drugs for veterans with service related disabilities taken off the table.

Adopted.

HCR 28, a resolution urging the federal government to restore full funding for prescription drugs for veterans with service related disabilities.

5699L

Amendment to HCR 28

Amend the title of the resolution by replacing it with the following:

A RESOLUTION

urging the federal government to restore full funding
for prescription drugs for veterans.

Amend the resolution by replacing all after the title with the following:

Whereas, in the 1980's, prescription drug prices rose 152 percent, nearly 3 times faster than the rate of inflation; and

Whereas, prescription drugs are expensive items for the majority of Americans and unaffordable for many of this country's poor population; and

Whereas, American veterans are among those most burdened by the costs of prescription drugs; now, therefore, be it

Resolved by the House of Representatives, the Senate concurring:

That the Congress of the United States is urged to eliminate federal laws and regulations which require certain veterans to share in the costs for their prescription drugs and to enact legislation to restore full funding for prescription drugs for veterans; and

That copies of this resolution signed by the speaker of the house and the president of the senate be forwarded to the President of the United States, and to each member of the New Hampshire congressional delegation.

AMENDED ANALYSIS

This house concurrent resolution urges the federal government to pass legislation eliminating cost sharing for prescription drugs for veterans.

SENATOR PODLES: Mr. President, I would like to have the amendment gutted because there would never be enough to pay pharmaceutical for all veterans. The bill just requests funding for disabled veterans as certified by the Veterans Administration. I urge passage of just the bill without the amendment.

SENATOR W. KING: Senator Podles, the committee amendment was adopted by the members of the committee, is that correct?

SENATOR PODLES: It seems that no one knows where that amendment came from. Senator King, I defer to Senator John King.

SENATOR J. KING: I am not quite sure myself, but what had happened last time, I don't know if we voted on the amendment or whether we voted on the bill itself, but basically what we want to do, is to kill any amendment that was brought up last time, and then go back to the original bill, and vote that one in. That is basically what we want to do. So I think that the motion is to kill the amendment that is now before you.

SENATOR DUPONT (In the Chair): Senator, as Chairman of the committee you are speaking against the committee amendment?

SENATOR J. KING: Yes.

Committee amendment fails.

SENATOR HUMPHREY: Senator Podles, is this the form in which we are now being asked to pass judgement on?

SENATOR PODLES: Yes.

SENATOR HUMPHREY: We are asking the Congress to eliminate laws and regulations which require certain veterans with service related disabilities to share in the costs for their prescription drugs. To enact legislation, to restore full funding for prescription drugs for veterans with service related disabilities?

SENATOR PODLES: Yes.

SENATOR HUMPHREY: How does this differ from the amendment that was just defeated?

SENATOR PODLES: The amendment is on page . . .

Recess.

Out of recess.

SENATOR HUMPHREY: Senator Podles, the resolution that is now before us asks the Congress to eliminate federal laws and regulations which require 'certain' veterans with service related disabilities to share in the cost for their prescription drugs. I mean, to me, maybe it is just possible that certain veterans, even those with service connected disabilities ought to be sharing. So before I really can exercise judgement or any of us can exercise judgement on this, we need to know who are these certain veterans with service related disabilities who now must share in the cost, and why have they been asked to share in the cost?

SENATOR PODLES: Senator, I think that the purpose of the resolution was to restore full funding for prescription drugs for veterans that have been disabled because they were cut off. They now ask for full funding. That was the purpose of the resolution.

SENATOR HUMPHREY: Mr. President, I think most of us applauded Senator Rudman when a few weeks ago he criticized the Congress for being spineless, for being stronger on oratory than on action. At the very least we don't really know enough about what we are being asked to do here to pass prudent judgement. I would also like to speak out for the principle for those who can afford to buy drugs or pay for part of them, ought to do so, whether they have service connected related disabilities or not. If we are going to deal with these entitlements, this believe me, is only the tip of the iceberg. If we are going to start caving in now to special interest groups, to ask Congress to rescind laws, which for all we know, may be well advised laws, we don't know. It is possible that they are poorly advised laws. We don't even know, and we are prepared to jump when a special interest group tells us to jump, to ask Congress to repeal laws that we don't even know what those laws are or whether they are well advised or not. So again, I think, that this is premature, at the very least, and it may be very unwise legislation. I think that we need to know a lot more before we do something. It is only a resolution, this is true, but it involves a principle, everybody is watching, everybody is fed up and cynical with government and politicians who say one thing and do another. If we are ever going to make any sense of this fiscal crisis in the state, and in the nation, we are going to have to take these entitlements head on, even veterans, and even disabled veterans. Our children are more important than special interest groups.

SENATOR PODLES: Senator Humphrey, would you believe that this is a resolution just urging the federal government to restore the full funding, and that it has no force of law?

SENATOR HUMPHREY: I not only believe that, but know it to be a fact. Now, Mr. President, since someone has spoken since I last spoke, and unless someone else wants to speak, I want to be recognized for a motion.

SENATOR BASS: Mr. President, I would like to reaffirm the comments that I made earlier on this matter, and I commend Senator Humphrey for his remarks which reflect, I think, in a true commitment and a lot of courage to a problem that we have all heard a lot about but have been unwilling to act on, and I would like to associate myself with his remarks.

SENATOR ROBERGE: Senator Podles, are you aware that, service connected, doesn't necessarily mean, service caused? It only means that the condition occurred while you happened to be in the service?

SENATOR PODLES: I believe that, yes.

SENATOR ROBERGE: I would like to make a short comment that I certainly agree, wholeheartedly with Senator Humphrey's comments.

SENATOR J. KING: I stand to disagree with Senator Humphrey. First of all this is asking to restore funds that were provided to these people because of service connected disabilities of one kind or another. To take these away from these people, to me, is the wrong place to start. I think that is has been given to them, and they certainly deserve it. If you are going to determine how bad the injury is, then it is a different story. If you are going to determine if you are wealthy, then it becomes a different story. The bill here is to restore the funds that were provided to these people before, because of service connected injuries. By the way, if you are talking about us being concerned about our children, yes we are, and all of these veterans at one time, were the children, 17 and 18 years old. So I certainly think that it should be passed.

SENATOR BLAISDELL: Mr. President, I want to associate myself with the remarks of Senator John King.

SENATOR HEATH: I would like to ask a question of the southern Senator King. Senator King, you are a democrat, the ruling part of your Congress, this isn't the right place to start you say, where is the right place to start? What are you willing to not pander on, in terms of getting the budget under control?

SENATOR J. KING: I'll tell you this: I would start first of all with the Congressmen and the Senators in Washington who get their free benefits out there, and the President of the United States who gets

it, all the generals and the big brass that get it, that is where I would probably start. I am sure that there are a lot of other areas that you could pick out that doesn't pick on a small group of people, significantly, who provided quite a service to this country, and who need it. Many of these people are down and out people.

SENATOR HEATH: Do you want to cosponsor a resolution on part of that list?

SENATOR J. KING: No, I don't.

SENATOR NELSON: Senator Blaisdell, what happened recently concerning the servicemen in the Gulf situation? Didn't we just do something in this state?

SENATOR BLAISDELL: Well the Senate, Senator, well we did the right thing as Senator Hough just said. The House today, just concurred with our bill that we are going to recognize those people who went over in the Persian Gulf.

SENATOR NELSON: Were they service, did we give them this for service connected disability or for their service to the United States?

SENATOR BLAISDELL: For their service to the United States of America.

SENATOR NELSON: Thank you, sir. Thank you, Mr. President.

SENATOR RUSSMAN: Just briefly, I rise in support of Senator Humphrey. I think that while it is difficult certainly to deal with the entitlement programs, I think, that there is no question that we have to make some of these difficult decisions. I disagree with what we did before relative to the Persian Gulf. I think that the people who signed up in the service knew that there were certain risks, and that they were accepting certain responsibilities, and they did so willingly for their country. I don't think that they did so with the idea that they were going to get some special reward or what have you other than that. I think that certainly what Senator Humphrey had to say on it, has some clear merit, and I would hope that we would support him on it.

SENATOR NELSON: Senator Russman, what do you think this little piece of paper here from New Hampshire, what kind of an impact is that going to have on the 400 of them in the United States of America's Congress who are bouncing checks? What impact is a little thing like this going to do?

SENATOR RUSSMAN: It seems as though you have probably answered the question yourself, Senator. But it probably will have

about as much weight as the rest of the little pieces of paper that we have passed here, that we have sent down there.

SENATOR HUMPHREY: I would like to finally say, Mr. President, that I don't think that this is an inconsequential question. It is true that it is only a resolution, but I think that the message that we send on this resolution, whether it goes up or it goes down, is one of the strongest messages that we are going to send this year, whether we are dealing with resolutions or bills. That is the message whether we are willing to take on these entitlement programs, and to put some reasonable limits on them, or conversely if we are going to continue to be impelled along by this organized group or that organized group, maybe with whose support that we hoped to get re-elected. I think that people are just so sick of that dynamic that the nation is ready to throw up its hands, if not throw up the contents of its stomach. So it is consequential, it is important. There is an important message that goes out with this, and to me, if we pass it, it is the wrong message to send in any event.

Senator Nelson moved to have HCR 28 a resolution urging the federal government to restore full funding for prescription drugs for veterans with service related disabilities laid on the table.

Question is on the tabling motion.

Division vote requested.

Yeas 0

Nays 20

Motion to lay HCR 28 on the table fails.

Question is on ought to pass.

A roll call was requested by Senator Disnard.

Seconded by Senator Nelson.

Recess.

Out of recess.

The following Senators voted Yes: Oleson, Hough, Disnard, Blaisdell, Nelson, McLane, Podles, J. King, St. Jean, Shaheen, Hollingworth, Cohen.

The following Senators voted No: W. King, Heath, Fraser, Currier, Roberge, Bass, Colantuono, Humphrey, Russman, Delahunty.

Yeas 12

Nays 10

Motion of ought to pass is adopted.

Ordered to third reading.

TAKEN OFF THE TABLE

Senator W. King moved to have HB 1345 an act allowing off-sale beer and wine licensees to advertise by signs and posters taken off the table.

Adopted.

HB 1345, an act allowing off-sale beer and wine licensees to advertise by signs and posters.

Question is on ought to pass.

Adopted.

Ordered to third reading.

TAKEN OFF THE TABLE

Senator Heath moved to have HB 601 an act establishing a public water access advisory board and a statewide public boat access program and continually appropriating a special fund for the purpose of the program and creating a new class of highways for access to public waters taken off the table.

Adopted.

Recess.

Out of recess.

HB 601, an act establishing a public water access advisory board and a statewide public boat access program and continually appropriating a special fund for the purpose of the program and creating a new class of highways for access to public waters.

SENATOR HEATH: Senator Podles had questions about HB 601 and asked to table it, and I think that her questions are satisfied. The section that she was concerned about was the removal of the Governor and the Executive Council in terms of approval of road access. It is out in the bill in one place and reinstituted in a different way in another place. The old way, this is a bit of housekeeping, the old way that was in there, hasn't been used since 1970. So with Senator Podles concurrence, I believe, I hope that we can move ahead with this access bill. It was a sticky compromise and I hope that we can keep it together.

SENATOR HUMPHREY: Senator Heath, what changes have been made in this bill since we last met?

SENATOR HEATH: There has been no change. Senator Podles was going to draw an amendment to restore a section, but I think

that when we looked at the bill, we found that that section was already restored within the present bill.

SENATOR HUMPHREY: Well, I will say it again, apparently to mostly deaf ears. But we ought not to be creating new state jobs at a time like this. I think that this is the only bill that we passed this year that does that. I believe that this is a mistake.

Ordered to third reading.

TAKEN OFF THE TABLE

Senator Russman moved to have HB 1101 an act relative to certain liquor license fees and expanding certain prohibitions regarding competing interest in liquor and wine sales taken off the table.

Adopted.

HB 1101, an act relative to certain liquor license fees and expanding certain prohibitions regarding competing interest in liquor and wine sales.

5773L

Amendment to HB 1101-FN

Amend the bill by replacing section 1 with the following:

1 Military Clubs; Special Licenses. Amend RSA 178:27, I to read as follows:

I. On-sale licensees shall pay the following applicable fees annually:

	Supplemental Only	Beverages and Wine	Beverages Cocktail and Liquor Lounge
Airport			\$1,200
Alpine Slide			1,200
Ballroom	\$45		1,200
Bed and Breakfast		\$480	\$840
Bowling Facility			1,200
Catering (all)			1,200
Catering (off-site only)			840
Catering (on-site only)		18 events - 450 36 events - 750 52 events - 1,200	
Club Military			100
Club Social		18 events - 450 36 events - 750 52 events - 1,200	1,200
Club Veterans		18 events - 450 36 events - 750 52 events - 1,200	840

College Club			1,200
Convention Center			2,400
Dining Car	480	840	
Fairs	112		
Golf Facility			1,200
Hotel		840	1,200
One Day License			100
Performing Arts			360
Race Track			3,000
Racquet Sports			1,200
Rail Cars			1,200
Restaurant	480	840	1,200
Ski Facility			1,200
Special License		25	
Vessel	480	840	1,200

Amend the bill by replacing section 5 with the following:

5 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill adds military clubs and special licenses to the on-sale licensee fee schedule and agency stores to the off-sale licensee fee schedule.

The bill clarifies the applicability of the beverage vendor license fee.

The bill also extends certain prohibitions on certain competing interest applicable to the beverage industry to the wine and liquor industries as well.

SENATOR RUSSMAN: The last time that we were here, we thought that the calendar was wrong, that it had left out something. It turned out that the calendar was actually right and the bill was drafted properly. That was the only technical matter on this bill was whether the calendar was right, and it turned out that it was, so it should have been passed at that time. The committee recommendation was ought to pass.

Question is on committee amendment.

Amendment adopted.

Ordered to third reading.

TAKEN OFF THE TABLE

Senator Heath moved to have HB 1455-FN an act relative to motor vehicle laws, including suspension of wholesale motor vehicle dealer's registration, hanging disability placards, and other technical changes taken off the table.

Adopted.

HB 1455-FN, an act relative to motor vehicle laws, including suspension of wholesale motor vehicle dealer's registration, hanging disability placards, and other technical changes.

SENATOR HEATH: I hope that you will bear with me, this has gotten very complicated. This is an omnibus bill that has several elements. We originally passed it, we found some drafting flaws, when we went after that, the committee changed the motorcycle warranty section, and by the time that that was done, some questions were raised by the Department of Safety over a couple of other sections, so in order to reduce confusion and so on, what I would like to do is do one amendment at a time and try to correct this and get it into the right form that everybody can agree too. In front of you, you should have floor amendment to HB 1455, #5948L.

Recess.

Out of recess.

Senator Heath offered a floor amendment.

5948L

Floor Amendment to HB 1455-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to motor vehicle laws, including suspension of wholesale
motor vehicle dealer's registration, hanging disability
placards, other technical changes, and relative
to nonresident automobile insurance.

Amend the bill by replacing all after section 12 with the following:
13 Diesel Fuel Exemption. Amend RSA 260:52, V to read as follows:

V. Every user of special fuel shall procure a user's license for each motor vehicle propelled by such fuel, which will expire on January 1 of each year; on such forms as the department may prescribe at a fee of \$5. It shall be unlawful for any owner or driver to drive or cause to be driven any motor vehicle propelled by such fuel over the ways of this state unless he is the holder of a valid user's license or has been granted authority to drive on a temporary basis as provided in RSA 260:52, VI. Notwithstanding this provision, all pleasure-type vehicles **and trucks with a gross registered weight of 10,000 pounds or less**, registered exclusively in another state shall be exempted from the requirements of a user's license. For the

purposes of this section, pleasure-type vehicles shall be limited to all vehicles with a registered gross weight of less than [7,000] **10,000** pounds, recreational vehicles and buses which have been structurally altered for use as campers which are not common or contract carriers of passengers and do not have a seating capacity of more than 19 passengers.

14 New Paragraph; Unpaid Fines Reported to Credit Bureau. Amend RSA 263:56-a by inserting after paragraph VI the following new paragraph:

VII. Whenever any defendant defaults on any arraignment or other scheduled court appearance and has failed to pay a fine or fines or any other penalty which totals more than \$100, the clerk of the court in which the default occurred shall notify a credit bureau in the defendant's home state of the total amount of any unpaid fines or penalties. Any summons issued by the director shall state conspicuously that a defendant's failure to pay fines which total over \$100 shall result in notification by the clerk of the court in which the default occurred to a credit bureau in the defendant's home state.

15 New Section; Nonresidency Automobile Insurance. Amend RSA 412 by inserting after section 2-c the following new section:

412:2-d Prohibition on Nonresident Automobile Insurance.

I. Notwithstanding any other provision of law to the contrary, no individual shall be provided coverage under a policy of automobile insurance, as defined in RSA 417-A, if such individual is found for the purposes of this section not to be a resident of New Hampshire at the time such policy was issued or renewed. Payment shall be made by the insurer for all valid bodily injury and property damage liability claims and all valid uninsured motorist claims by individuals other than the applicant for insurance who signed the statement required by RSA 417-A:3-b arising under such policy; however, the insurer shall be legally entitled to reimbursement by the policyholder for all such paid claims.

II. Any nonresident who meets the requirements for nonresident registration under RSA 261:46 shall be exempt from the provisions of paragraph I.

16 Rates for Motor Vehicle Insurance. RSA 412:19, RSA 412:19-a and RSA 412:19-b are repealed and reenacted to read as follows:

412:19 Assigned Risks. Claims paid by an insurer under a policy of automobile insurance, as defined in RSA 417-A, issued to an individual found not to be a resident of New Hampshire shall not be included in the calculation of premium rates filed with the commissioner for approval.

412:19-a Claims Schedule. Every insurance company individually or through a rating organization shall file annually with the commissioner a schedule of all otherwise valid claims denied under the pro-

visions of RSA 412:2-d, all bodily injury and property damage liability claims paid under a policy issued to an individual found not to be a resident of New Hampshire and amounts reimbursed by policyholders for all such paid claims.

412:19-b Rulemaking. The commissioner shall adopt rules, under RSA 541-A, relative to defining "resident" for the purposes of this chapter and RSA 417-A, including any criteria necessary for demonstrating residency in the state.

17 Definition of Automobile Insurance Policy. RSA 417-A:1, I is repealed and reenacted to read as follows:

I. "Policy of automobile insurance" means a policy delivered or issued for delivery in this state insuring a person as named insured or one or more related individuals resident of the same household, and under which the insured vehicles therein designated includes a private passenger automobile as defined in rules adopted by the commissioner pursuant to RSA 541-A.

18 New Section; Statement of Residency. Amend RSA 417-A by inserting after section 3-a the following new section:

417-A:3-b Statement of Residency. Insurers shall require applicants for coverage under all new or renewal policies of automobile insurance to sign a statement attesting that such applicant is a resident of the state of New Hampshire or that such applicant meets the requirements for nonresident registration under RSA 261:46. The form and content of such statement shall be determined by rules adopted by the insurance commissioner pursuant to RSA 541-A.

19 Motor Vehicle Warranties; Motorcycles Added. Amend RSA 357-D:3, V to read as follows:

V. If, after a reasonable number of attempts, the manufacturer, its agent or authorized dealer or its delegate is unable to conform the motor vehicle to any express warranty by repairing or correcting any defect or condition covered by the warranty which substantially impairs the use, market value, or safety of the motor vehicle to the consumer, the manufacturer shall, at the option of the consumer within 30 days of the effective date of the board's order, replace the motor vehicle with a new motor vehicle from the same manufacturer, if available, of comparable worth to the same make and model with all options and accessories with appropriate adjustments being allowed for any model year differences or shall accept return of the vehicle from the consumer and refund to the consumer the full purchase price or to the lessee, in the case of leased vehicles, as provided in paragraph IX. In those instances in which a refund is tendered, the manufacturer shall refund to the consumer the full purchase price as indicated in the purchase contract and all credits and allowances for any trade-in or down payment, license fees, finance charges, credit charges, registration fees, and any similar

charges and incidental and consequential damages or, in the case of leased vehicles, as provided in paragraph IX. Refunds shall be made to the consumer and lienholder, if any, as their interests may appear, or to the motor vehicle lessor and lessee as provided in paragraph IX. A reasonable allowance for use shall be that amount directly attributable to use by the consumer prior to the first repair attempt and shall be calculated by multiplying the full purchase price of the vehicle by a fraction having as its denominator 100,000 **or for a motorcycle 75,000** and having as its numerator the number of miles that the vehicle traveled prior to the first attempt at repairing the vehicle.

20 Repeal. The following are repealed:

I. RSA 261:58, II, relative to motorcycles used for off highway recreational purposes.

II. RSA 263:75, relative to implied consent de novo appeals.

21 Effective Date.

I. Section 2 of this act shall take effect July 1, 1992.

II. The remainder of this act shall take effect January 1, 1993.

AMENDED ANALYSIS

This bill establishes a disability hanging placard for motor vehicles and makes other technical changes relative to motor vehicle laws.

This bill requires the court clerks to notify any state credit bureau of any defendant's unpaid motor vehicle fines which total more than \$100.

This bill also prohibits the issuance of automobile insurance to nonresidents except for limited motor vehicle registration purposes. The insurance commissioner shall adopt rules relative to defining residency for the purposes of liability insurance and refusal of automobile insurance renewal.

Senator Heath moved to have HB 1455-FN an act relative to motor vehicle laws, including suspension of wholesale motor vehicle dealer's registration, hanging disability placards, and other technical changes laid on the table.

Adopted.

LAIID ON THE TABLE

HB 1455-FN an act relative to motor vehicle laws, including suspension of wholesale motor vehicle dealer's registration, hanging disability placards, and other technical changes.

HB 1455 is laid on the table.

TAKEN OFF THE TABLE

Senator Hollingworth moved to have HB 1498 relative to drug forfeiture taken off the table.

Adopted.

HB 1498, relative to drug forfeiture.

SENATOR COLANTUONO: Is this HB 1498, Mr. President?

SENATOR DUPONT (In the Chair): That is correct, Senator.

SENATOR COLANTUONO: The pending motion was ought to pass?

SENATOR DUPONT (In the Chair): Yes.

SENATOR COLANTUONO: I would like to speak against the pending motion, Mr. President. This bill is a bill that would seriously weaken the present drug forfeiture statute that we have in this state. There was strong opposition in the committee to the bill from the Attorney General's Office and from the entire law enforcement community. The vote was three to two. It was a closely contested vote and I expect the vote on the floor will be contested closely also. What the bill does, the bill would require, unlike the present law, a court to find in every instance in which a drug forfeiture is attempted by the state to find that the forfeiture is both just and proportionate to the seriousness of the chargeable felonious offense. This is very vague and ambiguous language which is going to cause a court battle in each and every case, and it is going to create great undertaking among the law enforcement communities to when and whether they should make a drug forfeiture. The bill also requires an automatic stay of any proceeding until all of the criminal proceedings are finished. Now that could take quite awhile because criminal serious felony cases, like drug cases, can take up to a year or more to even come to trial, and then you have the appeal to the Supreme Court during which the stay would have to stay in effect, which could take up to a year or more, then you have possible habeas corpus or appeals to the federal system. All the while the state is just sitting there waiting to see, and if it is items that have to be stored or items of real estate that have to be maintained and so forth, it could create enormous amounts of expense on the part of the state. The practical effect of this bill passing will be, that the Attorney General will decide not to use the state forfeiture law, and to use the federal forfeiture law instead. The federal forfeiture law allows 75 percent of any funds forfeited to go back to the local communities. So they would be theoretically in favor of it, and 25 percent of it goes to the federal government, and zero goes to the state. So our drug

forfeiture fund would be wiped out by that. Under present law, as you know, 55 percent of it goes to the state, 45 to the locals and 10 to ODAP. So, I think, that passage of this law could put a serious crimp in our efforts of fighting drugs. I think that it is very clear to everyone that the public is very serious about getting rid of drugs. And it has been proven that forfeiture is one of the best tools that the law enforcement has to fight this problem. In my opinion, the testimony that we heard at the hearing, does not justify the need for this bill. We have just passed several, a week or two ago, a bill that the Attorney General put in to strengthen the law, and I think that it would be counterproductive and contradictory to pass this bill which would seriously weaken the law. I would urge a vote against ought to pass and a substitute motion of inexpedient to legislate. I think that that is what the public wants of us, and I think that is what we need to do.

SENATOR HOLLINGWORTH: The committee on Judiciary voted that this bill ought to pass. I thank Senator Colantuono for giving you some kind of information about the drug forfeiture bill, but a lot of you have been here over the years as I have, and since 1981 I have been involved in this issue, in fact, I was the deciding vote back in the early days to go to the Administrative Rule on the drug forfeiture much to the disdain of several of my members on the House Judiciary committee, because they didn't want to go that route, they wanted to stay within the Judicial process and not go to the Administrative process. I was the vote that said, 'hey let us look at this one more time, the Attorney General's Office would like to have this and our police would like to have this'. So, in 1981, I was involved in this legislation as Senator Roberge and Senator Nelson and Senator Podles all were, and you all voted on the right side, you voted to allow for administrative forfeiture on vehicles and planes and things like that, because the idea was to get the illegal substance off of the street, to take the drugs and to take the vehicles that they were transporting them in. But Senator Roberge made a very good point during those hearings in those very early days, and was concerned about somebody taking her home, say her son or somebody came into the house and had illegal drugs in the house, and she asked that question at the hearing and they said, 'don't worry about that, that will never happen'. Well, I am here to tell you today, that the hearing that we heard on this issue, was conclusive, that it is happening today. There have been several cases brought in the state where a young man who was living with his parents, he wasn't the best kid in the whole world, but they let him come home because they wanted to make sure of where he was and they wanted to know what he was doing, while he was living in the parents home, he went out behind

the barn, and on top of the dogs grave, he planted five marijuana plants, guess what happened? They came in and they confiscated the marijuana plants and they charged him with trafficking in drugs. They said to him, 'look, what we will do for you is if you plead guilty in the criminal process, that will be the end of it', so the guy signed the paper and said, 'I plead guilty', he wanted it to be over with, right? Guess what they did? They foreclosed on the parents home and they said, 'you should have known better, you should have known he had five marijuana plants'. On top of that, then when they went . . . and they can do it, because it is only probable cause, you don't have to prove it was beyond a shadow of a doubt, all that you have to prove is probable cause. So then the parents, here they were losing their home that had been in their family for generations and what did the law enforcement say to them? 'Give us 80 percent of the value of the property and we will let you keep your house'. That is what they did. That is not only just happening in that one case, but the people who testified, the lawyers and the other people throughout the state say that it is happening everywhere. In fact, this does not weaken the law, because what it does, it says to the police, all that you have to do is prove your case and be careful of your case. I was one of the ones that strongly fought for the fund for the drug forfeiture and there is no way that I want to weaken that. This was in 1981 and 1985, 86, 87 and 89, and if anyone wants to look at the record, I am happy to have you see mine, because I was on the right side on all of those issues, every single time, because I wanted to help our police enforcement and because I wanted to give them money to fight drugs and, I believe, that that is what we did. This is the legislation that we passed since 1981 right through to 89. So there is nothing that I would do to weaken the power of the police departments to have the money that needs to go into the police enforcement. The big thing that you have to remember here is that all that this does is say: if you take property under the administrative forfeiture bill, you have a judge determine whether it is just and proportionate. The judge is going to determine whether five marijuana plants in the back yard . . . to lose their home, the parents home, was just and proportionate. That is all that this bill does, it does nothing more. It says that there will be a stay until the criminal process is done, so before you sell the home, you make sure that the guy is guilty. All that it does is protect the innocent, that is what we want. If we don't do that, someday some grandmother is going to find herself out on the streets because her grandson who she let live with her had a couple of plants. This is happening, I don't know whether any of you watched 60 Minutes a couple of weeks ago, but it was on television and it showed what was happening. So that federal government is concerned about what is happening even on the fed-

eral level and they are studying ways to tighten up the drug forfeiture on the federal level. The argument was made by Senator Colantuono, that they would go the federal route. That is why we initiated this legislation back in 1981 is because of the local governments wanted to go to the federal because they got 100 percent of the money back from the feds and they didn't have to share it with the Attorney General. So we worked really hard and believe me, the Senate Judiciary, through the years, as everybody in the Senate and House Judiciary worked very hard to make sure that there was good forfeiture laws and money came back to the state, so we did do that. So we don't want to weaken the standard, but as it was in the past and it still is, the AG has to give permission for them to take and go the federal loop; and he is not going to want to let them go the federal loop, because he is going to want the dollars that are going to come back to the state because of the drug forfeiture. So there is no question that this is going to help, it is not going to hurt. I know that some of you received phone calls from some of your police departments, unfortunately, I don't think that they understand what this does. It does not prevent them from taking a forfeiture, it just says that forfeiture has to be just and proportionate. I hope that you will support this. The Bar Association supported it as well as many others, so it was a very well attended hearing, and we think that it is a good piece of legislation and we ask ought to pass.

SENATOR COLANTUONO: On the case that you discussed, isn't it true that the law requires, before there be a forfeiture, that the owner of the property had to be a consenting party to a felonious violation and had knowledge of the violation?

SENATOR HOLLINGWORTH: Yes. These people were old and they said that they knew that he had something out behind the barn, but they didn't know that five marijuana plants were going to take and result in the loss of their home.

SENATOR COLANTUONO: And in that case, the parents were in fact charged with a felony, because of their behavior?

SENATOR HOLLINGWORTH: That is right. If I could finish answering that question, there was also a case brought to us that said that that case showed where double jeopardy could really be considered, because if you take forfeiture and you use that as punishment, then you cannot punish under the process that calls for the criminal act. So if they were to punish him by the criminal act, they couldn't turn around and also punish him on the civil forfeiture act. That is where double jeopardy would involve itself, he is not only being punished on the criminal end, but also on the civil end.

SENATOR COLANTUONO: In the hearing process, were there any other of these types of cases presented? Not in my term, but aren't we being abusive to the current system?

SENATOR HOLLINGWORTH: I am sorry, I didn't understand the question.

SENATOR COLANTUONO: Were there any other cases, factual situations presented to committee?

SENATOR HOLLINGWORTH: Yes, there were.

SENATOR COLANTUONO: How many . . . out of all of the forfeitures that the state has done, how many were deemed by the sponsor of the bill or whoever else is behind it to be abusive?

SENATOR HOLLINGWORTH: I don't recall that a number was given, but I think that there were about five cases that were talked about, at least while we were there, and I am sure that there were also many others.

SENATOR RUSSMAN: I have one clarification here, and that is the issue of the burden of proof in these matters. This and the sanity defense are the only places in our law in New Hampshire where the person has to prove that they didn't. In other cases, the state has to prove that you did, but in this case, you have to prove that you didn't and that's probably very often a difficult burden to overcome. So I think that you need to consider that in terms of who should be proving what here. Should the state of New Hampshire be proving things against its citizens or should the citizens have to be proving things against the state of New Hampshire. So I guess I would come down on the side, I think that the bill is reasonable, given the fact that there is . . . not that there has been a great deal of abuse, but the potential is there for abuse in terms of citizenry, so that would be my concern.

SENATOR COLANTUONO: I am just going to read in response to that point, read from the statute: "Such petition", meaning the forfeiture petition, "shall be deemed a civil suit in equity in which the state shall have the burden of proving all material facts by a preponderance of the evidence."

SENATOR BASS: Senator Colantuono, Senator Hollingworth mentioned that in response to your concern that the feds, that they go to the federal system that the Attorney General has to agree to allow them to go to the federal system and if the Attorney General didn't agree, then they couldn't do it. Could you respond to that, because that is one of the concerns that you mentioned as being a major concern?

SENATOR COLANTUONO: Right. The word that I have from law enforcement community is that if this bill passes, the Attorney General will agree, he will want them to go that route. Because otherwise, it is too difficult to do forfeiture.

Recess.

Out of recess.

Question is on ought to pass.

Senator Russman moved to have HB 1498 relative to drug forfeiture laid on the table.

Adopted.

LAID ON THE TABLE

HB 1498 relative to drug forfeiture.

HB 1498 is laid on the table.

TAKEN OFF THE TABLE

Senator Nelson moved to have HB 1466-FN an act modifying the advisory council on unemployment compensation taken off the table.

Adopted.

HB 1466-FN, an act modifying the advisory council on unemployment compensation.

5740L

Amendment to HB 1466-FN

Amend the title of the bill by replacing it with the following:

AN ACT

requiring the advisory council on unemployment compensation to give public notice of its meetings and relative to group
II retirement system members' purchase of service
for out-of-state service-creditable.

Amend the bill by replacing all after the enacting clause with the following:

1 Advisory Council on Unemployment Compensation; Public Notice Required. Amend RSA 282-A:128 to read as follows:

282-A:128 Advisory Council. There is hereby created within the unemployment compensation bureau an advisory council on unemployment compensation, hereinafter called the advisory council. The advisory council shall consist of 7 members to be appointed upon recommendations of the commissioner by the governor with the con-

sent and advice of the governor's council. Three of the appointees of this advisory council shall be persons who, because of their vocations, employment or affiliations, shall be classed as representing the point of view of employers; 3 shall be persons who, because of their vocations, employment or affiliations, shall be classed as representing the point of view of employees; the remaining appointee, who shall be designated as chairman, shall be a person whose training and experience qualify him to deal with the problems of unemployment compensation. Such advisory council shall aid the commissioner in formulating policies and discussing problems related to the administration of this chapter and in assuring impartiality and freedom from political influence in the solution of such problems. **The advisory council shall give public notice at least 20 days in advance of any meeting of the advisory council.**

2 Purchase of Out-of-State Service by Group II Members. Amend RSA 100-A:4-c, I(e) to read as follows:

(e) The amount of creditable service purchased shall be either the full length of service rendered in the other system or a [pro-rata portion of such service purchasable with the maximum amount which the member is permitted to withdraw from the other system] **portion of such service as the member may elect to purchase;** and

3 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill requires the advisory council on unemployment compensation to give public notice of its meetings.

This bill also allows group II retirement system members to purchase either the full length of service rendered in an out-of-state retirement system, or a portion of such service as the member may elect to purchase.

SENATOR NELSON: Right now, as I speak, the amendment is being handed out. The committee amendment is being handed out?

SENATOR DUPONT (In the Chair): No, Senator, right now we are working on the adoption of the committee amendment first, Senator.

SENATOR NELSON: I rise in opposition to the committee amendment, right?

SENATOR DUPONT (In the Chair): That is fine with us, Senator, whatever you want.

SENATOR NELSON: I will offer a floor amendment.

Question is on the committee amendment.

Committee amendment fails.

SENATOR NELSON: I didn't know if I should wait until everyone had a copy of the amendment?

SENATOR DUPONT (In the Chair): That floor amendment number is 5930L.

SENATOR NELSON: Mr. President and fellow Senators, I have been in close touch with the members of the Insurance committee, Senator Delahunty, Senator Russman, Senator Colantuono, Senator Bass, Senator Blaisdell, Senator Hollingworth, and Senator Shaheen, and I would just point out to you the only change, the only change being made from what was in the committee amendment was on page two. If you will take a look, the advisory committee should meet at least four times per year. That is the only thing changing that amendment. We are just saying that the advisory committee should meet at least four times a year. I am sure that the other members of the Insurance committee would be more than happy to rise if you feel that you need more information, otherwise, I would be happy to answer any questions for you.

Senator Nelson offered a floor amendment.

5930L

Floor Amendment to HB 1466-FN

Amend the title of the bill by replacing it with the following:

AN ACT

requiring the advisory council on unemployment compensation to meet at least 4 times per year and give public notice of its meetings and relative to group II retirement system members' purchase of service for out-of-state service-creditable.

Amend the bill by replacing section 1 with the following:

1 Advisory Council on Unemployment Compensation; Public Notice Required. Amend RSA 282-A:128 to read as follows:

282-A:128 Advisory Council. There is hereby created within the unemployment compensation bureau an advisory council on unemployment compensation, hereinafter called the advisory council. The advisory council shall consist of 7 members to be appointed upon recommendations of the commissioner by the governor with the consent and advice of the governor's council. Three of the appointees of this advisory council shall be persons who, because of their vocations, employment or affiliations, shall be classed as representing the point of view of employers; 3 shall be persons who, because of their vocations, employment or affiliations, shall be classed as repre-

senting the point of view of employees; the remaining appointee, who shall be designated as chairman, shall be a person whose training and experience qualify him to deal with the problems of unemployment compensation. Such advisory council shall aid the commissioner in formulating policies and discussing problems related to the administration of this chapter and in assuring impartiality and freedom from political influence in the solution of such problems. **The advisory council shall meet at least 4 times per year and shall give public notice at least 20 days in advance of any such meeting.**

AMENDED ANALYSIS

This bill requires the advisory council on unemployment compensation to meet at least 4 times per year and give public notice of its meetings.

This bill also allows group II retirement system members to purchase either the full length of service rendered in an out-of-state retirement system, or a portion of such service as the member may elect to purchase.

Recess.

Out of recess.

Floor amendment adopted.

Ordered to third reading.

TAKEN OFF THE TABLE

Senator Russman moved to have HB 1113 an act relative to compatible and conflicting liquor and beverage licenses taken off the table.

Adopted.

HB 1113, an act relative to compatible and conflicting liquor and beverage licenses.

5755L

Amendment to HB 1113

Amend RSA 178:10, V as inserted by section 5 of bill by replacing it with the following:

V. A manufacturer distributing not more than 4,000 barrels of beverages within the state per year may sell beverages manufactured on his licensed premises directly to retail licensees subject to the provisions of RSA 178:30. The manufacturer of beverages distributing not more than 4,000 barrels of beverages within this state per year may not sell to wholesale distributors without obtaining a beverage vendor license as required by RSA 178:12.

AMENDED ANALYSIS

This bill requires table wine vendors to designate liquor and wine representatives for their products.

The bill clarifies the types of licenses a liquor and wine representative may hold.

The bill allows local producers distributing not more than 4,000 barrels of beverages within this state per year to sell directly to retail licensees, but prohibits them from selling to wholesale distributors without obtaining a beverage vendor license.

The bill divides supplemental licenses into special, seasonal licenses and fair licenses.

Question is on committee amendment.

Committee amendment adopted.

SENATOR RUSSMAN: You should be getting #5929L in front of you, deleting section five. That had to do with the situation of around 4,000 barrels. We have been able to work out with a meeting with the Liquor Commission, with the chief law enforcement and Joe Acorace, the Chairman, he has informed us that the people particularly in Portsmouth, the Frank Jones Brewing Company, are presently in compliance with the state law and will have no difficulty continuing their role in manufacturing and acting as a distributor, because they have two separate licenses, the husband and the wife each have a license. So based on Chairman Acorace telling us that there would be no difficulty with these people and we have agreed to take the 4,000 barrels from the law. I understand regulated revenues over in the House is in agreement with this amendment. I am sure that the Liquor Commission is aware that we, I will be watching what they do as we always try to in terms of seeing that the Frank Jones Brewery in Portsmouth gets every chance it can to make a go at it and prosper, we are looking at possibly 50 jobs over there in the seacoast area in this new brewery, and perhaps others will spring up around the state because of this. So we would urge your support of the amendment at this time.

Senator Russman offered a floor amendment.

5929L

Floor Amendment to HB 1113

Amend the bill by deleting section 5 and renumbering sections 6-10 to read as 5-9, respectively.

AMENDED ANALYSIS

This bill requires table wine vendors to designate liquor and wine representatives for their products.

The bill clarifies the types of licenses a liquor and wine representative may hold.

The bill divides supplemental licenses into special, seasonal and fair licenses.

Floor amendment adopted.

Ordered to third reading.

SENATOR COHEN: I want to offer Senate Resolution 6. The amendment is #5946L and hopefully it is being passed out now. This is related to a story in today's institution. 'Navy boss gives no guarantee about the shipyard'. The Secretary of the Navy toured the Portsmouth Naval Shipyard yesterday and was unable to give any guarantees that the shipyard would stay open. There has been some discussion about special interest here and this is a special interest, I think, to the constituents of my district, Senator Hollingworth's district, Senator Shaheen's district, and Senator Dupont's district. I met with the lobbyist of the shipyard yesterday and he said that political pressure does indeed matter; this is not just a feel good resolution, political pressure does matter. The other shipyards have significant pressure from the House and in the Senate in Washington. We unfortunately, don't have as much pressure, but it is important for us to speak out and keep this issue visible. District 24 took a big loss with the closing of Pease, the shipyard is phasing down, it had about 9,000 employees a few years ago and now it is down to about 7,000 and another 600 are about to be laid off. My district can't take another big hit like we had at Pease. This resolution will go to Congress, go to the President, and just let them know that we are watching it, we are being careful and we want to keep all of the pressure that we can to keep the shipyard open. I would very much appreciate your support for this resolution.

Senator Cohen offered Senate Resolution #6.

SR 6**STATE OF NEW HAMPSHIRE**

In the year of Our Lord one thousand
nine hundred and ninety-two

A RESOLUTION

urging the United States Congress to continue to operate, develop, and diversify the Portsmouth Naval Shipyard.

Whereas, the Department of the Navy has maintained the Portsmouth Naval Shipyard since June 12, 1800; and

Whereas, the Portsmouth Naval Shipyard has performed in an exemplary manner throughout its almost 2 centuries of history; and

Whereas, the Portsmouth Naval Shipyard is one of the most modern facilities available in the United States for the repair, overhauling, and refueling of naval vessels; and

Whereas, the communities located near the Portsmouth Naval Shipyard, in Maine, New Hampshire, and Massachusetts offer an abundance of highly trained, skilled and experienced workers who have an outstanding work ethic; and

Whereas, the state of New Hampshire is firmly committed to actively supporting the continuation of the United States Naval Shipyard at Portsmouth; now, therefore, be it

Resolved by the Senate:

That the senate respectfully recommends and urges the Congress of the United States to continue to operate, develop, diversify, and make fullest use of the United States Naval Shipyard at Portsmouth, New Hampshire;

That the senate further urges the Congress of the United States to take all necessary action to ensure that the Portsmouth Naval Shipyard remains an integral component in a post-cold war defense strategy; and

That copies of this resolution, signed by the president of the senate, be forwarded by the senate clerk to the Honorable George H. W. Bush, President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each member of the New Hampshire congressional delegation.

SENATOR HEATH: Senator Cohen, is this essentially your statement, that you don't want another authority?

SENATOR COHEN: I am not following your question, Senator.

SENATOR HEATH: I withdraw the question.

SENATOR COHEN: Thank you.

Adopted.

TAKEN OFF THE TABLE

Senator Heath moved to have HB 1052 an act relative to the appointment of the executive director of the fish and game department and allowing the governor to make more frequent appointments to the fish and game commission taken off the table.

Adopted.

HB 1052, an act relative to the appointment of the executive director of the fish and game department and allowing the governor to make more frequent appointments to the fish and game commission.

5805L

Amendment to HB 1052

Amend RSA 206:8, I as inserted by section 2 of the bill by replacing it with the following:

I. The governor and council shall appoint an executive director of the fish and game department from a list of [5] **3 or more** names submitted to the governor and council by the commission, each of whom shall be a person with knowledge of, and experience in, the requirements for the protection, conservation and restoration of the wildlife resources of the state and who shall be a competent administrator. **In the event of consideration for reappointment of the executive director, the commission shall submit one or more names to the governor and council.** The executive director shall hold office for a term of 5 years from the date of his appointment and until his successor is appointed and qualified. A vacancy in such office shall be filled for the unexpired term. The governor and council shall have the authority to remove the executive director at any time, but only for just cause pursuant to RSA 4:1. [In such case, the governor and council shall deliver to the executive director a copy of the charges against him and afford him an opportunity of being heard publicly in his own defense in person or by counsel after being given not less than 15 days' notice.] The executive director shall not hold any other public office, and shall devote his entire time to the service of the state in the discharge of his official duties. He shall receive the compensation prescribed in RSA 94:1-4, and shall be reimbursed for all actual and necessary traveling and other expenses incurred by him in the discharge of his official duties. Before entering upon the duties of his office, he shall take the oath prescribed by the constitution, and shall, in addition thereto, swear that he holds no other public office nor any position under any political committee or party. Such oath shall be filed with the secretary of state. He shall have general supervision and control of all activities, functions and employees of the fish and game department, and shall enforce all the

provisions of the laws of this state relating to fish, wildlife resources and marine species, and shall exercise all necessary powers incident thereto.

AMENDED ANALYSIS

This bill allows more than 2 members to be appointed to the fish and game commission each year.

This bill also requires the fish and game commission to submit a list of 3 or more names to the governor for the appointment as executive director of the fish and game department. Current law requires a list of 5 or more names. In the event of consideration for reappointment of the executive director, the commission shall submit one or more names to the governor and council.

This bill also limits the term of the executive director to 4 years.

SENATOR HEATH: Well, I guess we have to adopt the . . . do we have to adopt the . . . can we do a floor amendment in lieu of the committee amendment?

SENATOR DUPONT (In the Chair): Senator, you would have to defeat the committee amendment.

SENATOR HEATH: Okay, I guess I first then urge you to defeat the committee amendment and then I will offer a floor amendment.

Question is on committee amendment.

Committee amendment fails.

SENATOR HEATH: You see, the brain is deteriorating. This amendment answers a question raised by Senator Disnard when we were all ready to adopt this piece of legislation which is not an earth-shaking piece of legislation. Senator Disnard raised a question of why we would deny a hearing on the dismissal of an executive director of Fish and Game. The amendment had brackets around it which meant that we were removing the language offering a hearing if the Governor, primarily dismisses the director of Fish and Game. I think that he raised a good question and we could not come up with a good answer, so this floor amendment offers to restore that. The rest of the committee amendment simply takes . . . if the Fish and Game Commission wants to reappoint the presiding director, they need not submit the three to five nominees to the Governor and embarrass all but one of those nominees which would be the sitting one, if they should decide to do that, they still have the option which would be an indicator that they didn't want the present one. So the bill itself is pretty much housekeeping to save some money for the state of New Hampshire and to save embarrassment for having to have either phony candidates or candidates that don't have a chance. The

amendment is to answer the question of restoring due process to a Fish and Game Director if he is similarly removed. I would urge you to adopt the floor amendment.

Senator Heath offered a floor amendment.

5891L

Floor Amendment to HB 1052

Amend RSA 206:8, I as inserted by section 2 of the bill by replacing it with the following:

I. The governor and council shall appoint an executive director of the fish and game department from a list of [5] **3 or more** names submitted to the governor and council by the commission, each of whom shall be a person with knowledge of, and experience in, the requirements for the protection, conservation and restoration of the wildlife resources of the state and who shall be a competent administrator. **In the event of consideration for reappointment of the executive director, the commission shall submit one or more names to the governor and council.** The executive director shall hold office for a term of 5 years from the date of his appointment and until his successor is appointed and qualified. A vacancy in such office shall be filled for the unexpired term. The governor and council shall have the authority to remove the executive director at any time, but only for just cause pursuant to RSA 4:1. In such case, the governor and council shall deliver to the executive director a copy of the charges against him and afford him an opportunity of being heard publicly in his own defense in person or by counsel after being given not less than 15 days' notice. The executive director shall not hold any other public office, and shall devote his entire time to the service of the state in the discharge of his official duties. He shall receive the compensation prescribed in RSA 94:1-4, and shall be reimbursed for all actual and necessary traveling and other expenses incurred by him in the discharge of his official duties. Before entering upon the duties of his office, he shall take the oath prescribed by the constitution, and shall, in addition thereto, swear that he holds no other public office nor any position under any political committee or party. Such oath shall be filed with the secretary of state. He shall have general supervision and control of all activities, functions and employees of the fish and game department, and shall enforce all the provisions of the laws of this state relating to fish, wildlife resources and marine species, and shall exercise all necessary powers incident thereto.

AMENDED ANALYSIS

This bill allows more than 2 members to be appointed to the fish and game commission each year.

This bill also requires the fish and game commission to submit a list of 3 or more names to the governor for the appointment as executive director of the fish and game department. Current law requires a list of 5 or more names. In the event of consideration for reappointment of the executive director, the commission shall submit one or more names to the governor and council.

This bill also limits the term of the executive director to 4 years.

SENATOR MCLANE: Senator Heath, if I think that Doctor Normandeau is doing a good job in Fish and Game, would I be inclined to vote for your amendment?

SENATOR HEATH: Senator, I would hope that it wouldn't circulate around an individual. I would agree that he is doing a fine job, but I think that the amendment is fairness in due process to any executive director, and the bill itself is fairness in due process, if you will, to a potential director.

SENATOR W. KING: Senator Heath, if a Governor would like to have the opportunity to appoint someone different, this amendment would prevent that from happening if the Fish and Game Commission decided that they were going to submit just one name, correct?

SENATOR HEATH: No. The Governor is not locked in, as I understand it, under that there. If they wanted reappointment of the present director, they would submit his name, the Governor is not obliged to reappoint.

SENATOR HEATH: Let me make sure that I understand the process. The Fish and Game Commission decides that they want to keep the current person, the current director, they submit one name to the Governor. If the Governor would like to have more names, the only thing that the Governor, he or she can do, is to refuse to nominate that individual, correct? Then it goes back to the Fish and Game Commission who could refuse to give him anymore names.

SENATOR HEATH: Yes. Then eventually he would come to reappointment of each of the Fish and Game Commissions and after a lengthy time, they would probably change their attitude, but then the director would have done a second term.

SENATOR W. KING: Now I get my chance to go after Senator Heath. I think that this is a bad idea. I think it is a bad idea because what you are in essence doing, is saying that the Fish and Game Commission will dictate to whoever happens to be the Governor,

who the next Fish and Game Commissioner will be if it is a reappointment situation, without giving the Governor the option of selecting from several individuals. If the Governor doesn't like that particular individual in terms of what his or her management plans are for Fish and Game, then the Governor just doesn't choose that person, Fish and Game doesn't choose another name and then you have a stalemate that means that the Fish and Game Commission wins because you hold over that Commissioner until the stalemate is finally resolved. I urge defeat of the floor amendment.

SENATOR HEATH: I won't quote Senator King's last remarks. If you had all been quiet suddenly, you would have embarrassed the hell out of him though. The fact is, if the position is vacant now, the Commission submits five names to the Governor and he picks one of those for executive director. That, years ago, became a compromise between their having the appointment that had the agency and the Governor having it. They submit five names, the Governor picks one and appoints it. Now, if they want the present executive director at any point to continue, under the present law, they still have to submit five names. Now if they really want him to continue, they still have to submit five names, so who are they going to submit, are they going to submit five names, one of which will be the present one and the other will be Alfred E. Newmans, would you embarrass the Alfred E. Newmans that get nominated, or people from within the department, you have to find some sacrificial goats to nominate and they're embarrassed, and also it is on their record that they were turned down as executive director, and they might be legitimate people that someday want to and should be considered legitimately. So this is get rid of that glitch that the Fish and Game Commission essentially controls the re-nomination as much as the Governor controls the original appointment. I don't know any other way to do it. I think that this really cleans up a present mess that embarrasses both the department and the presiding director and any of the people that are loaded on there just to fulfill the law. It doesn't accomplish what Senator King complains about, because the Fish and Game Commission can still hold up the Governor in the reappointment process under the present law.

Division vote requested.

Yeas 16

Nays 2

Floor amendment adopted.

Ordered to third reading.

SENATOR HUMPHREY: Mr. President, I move that the Senate request the Clerk to convey to Senator Pressly, the regret of each and every member, of her accident, and the wishes of each of us, for a speedy recovery.

TAKEN OFF THE TABLE

Senator Russman moved to have HB 1116 an act relative to certain liquor and beverage licenses taken off the table.

Adopted.

HB 1116, an act relative to certain liquor and beverage licenses.

5772L

Amendment to HB 1116

Amend the bill by replacing all after section 6 with the following:

7 Seasonal License. Amend RSA 178:31 to read as follows:

178:31 Seasonal License.

I. Notwithstanding any other provision of law, the commission may issue a seasonal license, which shall be valid for [120] 180 days from the date of issuance, to any individual, partnership, or corporation who is otherwise eligible for an on-sale license under RSA 178:19 or RSA 178:20, an off-sale license under RSA 178:16 or a license under RSA 178:17 or RSA 178:18.

II. No seasonal license shall be renewed, except for a full term license period expiring pursuant to 178:27, VII, unless 30 days have elapsed since the expiration of the seasonal license.

III. The fee for a seasonal license shall be 1/2 of the applicable yearly fee for the on-sale license or off-sale license under RSA 178:27.

8 Effective Date. This act shall take effect upon its passage.

SENATOR RUSSMAN: This bill still does the very thing that Mary Nelson wanted it to do. It allows a happy hour to be extended from, I think it is from two hours to three hours. It also does the same thing that HB 1113 does relative to the 4,000 barrels. It protects seasonal licenses in terms of people who had licenses for part of the year; and now they can have it for a little bit longer of time because of the extension from Memorial Day to Labor Day and that type of thing, they needed that for the restaurant owners and seasonal people like that.

Question is on committee amendment.

Committee amendment adopted.

SENATOR NELSON: For the record, I don't drink and I am not looking to extend happy hours.

SENATOR RUSSMAN: For Madame, I mean, Senator Nelson, no disrespect meant of course.

SENATOR HOLLINGWORTH: This bill that changes the two hours to three, doesn't extend happy hours. What it really does is allow a restaurant the same advantages that we gave last year to hotels so that they may open their lounge earlier than their dining room opens and that really doesn't extend the happy hour. That is not what the intent of the legislation was. There is an amendment in front of you, floor amendment #5952L. This amendment was the combination of all of the amendments that we had before, but what it really does is it removes the section of the law that dealt with the barrels for those people who were going to be dealing in direct sales of barrels and those people who were going to produce beer. Because of the agreement between the Liquor Commission, that no lounge is necessary, so that has been removed from the bill. The three hours for the dining room opening is in there. It determines that people can only have 20 ounces of alcohol in front of them, and I think that I discussed this last week when we had the bill on the floor.

Senator Hollingworth offered a floor amendment.

5952L

Floor Amendment to HB 1116

Amend the bill by replacing all after section 2 with the following:

3 Cocktail Lounges in Full Service Restaurants. Amend RSA 178:20, V(q) to read as follows:

(q) Full Service Restaurants. The commission may issue a cocktail lounge license to any full service restaurant holding a full service restaurant license under RSA 178:19, II(a)(1), to serve liquor and beverages in any room of the restaurant designated by the commission. The cocktail lounge shall be operated in conjunction with the dining rooms. No cocktail lounge shall be operated on days that the dining room is closed. No cocktail lounge shall operate before the dining room opens for meals, except if breakfast and noon meals are not offered, the cocktail lounge may operate [one hour] **3 hours** before the dining room opens for the evening meals. Liquor and beverages served in such room need not be consumed with meals. The commission may extend the cocktail lounge license to include the use of a dining area in the restaurant, after such area has been closed for serving meals, but not before 9:00 p.m., as an overflow area for the cocktail lounge when the lounge is filled to capacity. In the overflow area, liquor and beverages need not be served with meals. [The number of guests allowed to use a dining area of the restaurant as a

lounge on an overflow basis shall not exceed the capacity of the lounge area.] Licenses shall be granted only to such restaurants as the commission, at its discretion, shall approve and then only to such restaurants as shall demonstrate to the commission, in the manner prescribed by the commission, that at least 50 percent of the combined restaurant and lounge and lounge sales shall fall within the category of food. Restaurants with annual food sales of at least \$100,000 shall be exempt from the 50 percent requirement, and the commission shall prorate the annual food sale requirements for seasonal restaurants. The commission may grant, regulate, suspend or revoke a cocktail lounge license without affecting any other license granted to such restaurant.

4 Beverage Containers. Amend RSA 179:39, I to read as follows:

I. Beverages shall be sold by on-sale licensees by the glass, pitcher, bottle, can, original container or any other suitable container approved by the commission. Not more than a total of 20 ounces shall be served to any one person at any time. Caps shall be removed before service. [Beverage shall not be sold in pitchers with a capacity in excess of 40 ounces.]

5 New Paragraph; Liquor by the Glass. Amend RSA 179:39 by inserting after paragraph II the following new paragraph:

III. Liquor, excluding wine, shall be served by the glass or other suitable container. No more than 4 ounces of liquor shall be served to any single patron at a time. Liquor served in quantities of more than 4 ounces may be served to a group of persons, provided not more than 4 ounces of liquor is served per person.

6 Seasonal License. Amend RSA 178:31 to read as follows:

178:31 Seasonal License.

I. Notwithstanding any other provision of law, the commission may issue a seasonal license, which shall be valid for [120] 180 days from the date of issuance, to any individual, partnership, or corporation who is otherwise eligible for an on-sale license under RSA 178:19 or RSA 178:20, an off-sale license under RSA 178:16 or a license under RSA 178:17 or RSA 178:18.

II. No seasonal license shall be renewed, except for a full term license period expiring pursuant to 178:27, VII, unless 30 days have elapsed since the expiration of the seasonal license.

III. The fee for a seasonal license shall be 1/2 of the applicable yearly fee for the on-sale license or off-sale license under RSA 178:27.

7 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill clarifies the authority of import warehousemen to transport liquor in excess of the legal limit.

The bill allows full service restaurants to open their lounges 3 hours before the dining room opens.

The bill allows beverages and liquor to be served by the pitcher to groups of persons.

The bill also extends the time period of a seasonal license from 120 to 180 days.

SENATOR HEATH: Whoever can answer this, Senator Hollingworth or Senator Russman, it says that this bill clarifies the authority of import warehouses to transport liquor in excess of the legal limit. I would like to know what that is all about?

SENATOR HOLLINGWORTH: This is precisely what they were given . . . had been doing all along. All that it does is clarify the language so that they can continue to do, to transport what they have, and I am not sure of the numbers right now, I am sure that it is in the bill, I just didn't bring my notes. The practice has been going on for the last several years.

SENATOR HEATH: So what you are saying is that somebody has been breaking the law for the last few years in transporting overweight?

SENATOR HOLLINGWORTH: It is not overweight, it is the numbers of gallons of beer that they are transporting, not overweight vehicles. It is the number of beer that they are transporting to their own industry, their own business.

SENATOR HEATH: So if they do this, this will reduce the number of drivers needed, a sort of whack at the teamsters?

SENATOR HOLLINGWORTH: No, and I think that you know that that is not the case.

SENATOR HEATH: I was just trying to feel you out on it.

SENATOR NELSON: Senator Hollingworth, do you yield to my question?

SENATOR HOLLINGWORTH: I would be glad to.

SENATOR NELSON: Thank you, Senator Hollingworth, it's always good to talk to the experts in this business. On page two of the floor amendment, I just couldn't quite hear everything that you said, and having a lot of respect for people who do drink, I just wanted to understand it more. On page two, I see the brackets, the number of guests allowed to use the dining area of the restaurant as a lounge

on an overflow basis shall . . . I just wondered how that effects the fire code? I didn't understand on four, 'beverages shall not be sold in pitchers with the capacity in excess of 40 ounces', I didn't understand about the caps being removed and what that meant to the average person?

SENATOR HOLLINGWORTH: The number of guests is that the dining room it used to be that you could only use a portion of the dining room if you had a lounge in your establishment, and we don't believe that that is an important factor that the Liquor Commission should be looking at. Of course they have to abide by the fire codes in all of the communities that they do business in, so this really has nothing to do at all with changing the fire codes. All that it says is that you can use your dining room for overflow of your lounge. That is something that we think is appropriate at this time. As far as the ounces, it used to be a pitcher of beer that used to be served, a 32 ounce pitcher of beer and that size pitcher of beer was not able to be purchased anywhere within the state, so what we determined is that what it should be is actually how much each person should drink, if you want to get down to saying that they can only have 20 ounces, and that is what the Liquor Commissioner determined that you can have any size pitcher of beer in front of you, but each person that is drinking from that pitcher can only have 20 ounces in front of them.

SENATOR NELSON: What does it mean, does it literally mean that the caps shall be removed before, does it mean that the caps should be taken off of the bottle or the caps on the amount of drinks that they get?

SENATOR HOLLINGWORTH: I am afraid I don't see where you are reading this.

SENATOR NELSON: It says, 'no more than a total of 20 ounces shall be served to any person, caps shall be removed'.

SENATOR HOLLINGWORTH: I am sorry, you want to handle that one, Rick?

Floor amendment adopted.

Ordered to third reading.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and Senate Bills:

HB 326, relative to disciplinary hearings before the pharmacy board.

HB 1135, relative to liquidation under the supervision of the bank commissioner.

HB 1137, relative to nondepository first mortgage bankers and brokers.

HB 1153, authorizing the division of human services to assess an administrative fine on employers for failing to comply with an assignment order.

HB 1196, clarifying the amount to be paid from the firemen's relief fund in the event of a claim.

HB 1242, establishing a study committee on certain current use issues.

HB 1492, eliminating the capital appropriation for the demolition of the Walker building.

SB 381, relative to interest on escrow accounts.

SB 426, establishing a task force to develop a strategy to train police, prosecutors and correctional personnel to successfully prevent, investigate and prosecute sexual assault cases.

RESOLUTION

Senator Delahunty moved that the rules of the Senate be so far suspended as to allow all bills to be placed on third reading and final passage, all titles be the same as adopted, and that they be passed at the present time.

Adopted.

ANNOUNCEMENTS

RESOLUTION

Senator Delahunty moved that the Senate be in recess until Wednesday, April 22, 1992 at 11:00 a.m. for the sole purpose of receiving House Messages and Enrolled Bill Reports.

Adopted.

LATE SESSION

Third Reading and Final Passage

HB 469-A, an act relative to improvements on route 106 and making an appropriation therefor.

HB 601, an act establishing a public water access advisory board and a statewide public boat access program and continually appropriating a special fund for the purpose of the program and creating a new class of highways for access to public waters.

HB 675-FN, an act relative to DWI penalties while operating a motor vehicle, OHRV, or boat or while transporting a child.

HB 689-FN, an act relative to implied consent and administrative motor vehicle license suspension.

HB 1052, an act relative to the appointment of the executive director of the fish and game department and allowing the governor to make more frequent appointments to the fish and game commission.

HB 1101, an act relative to certain liquor license fees and expanding certain prohibitions regarding competing interest in liquor and wine sales.

HB 1105, an act relative to disclosure of campaign contributions by candidates for local and school district elections.

HB 1113, an act relative to compatible and conflicting liquor and beverage licenses.

HB 1116, an act relative to certain liquor and beverage licenses.

HB 1128, an act classifying certain misdemeanors as either class A or class B.

HB 1136, an act relative to regulation of small loans.

HB 1138, an act relative to the board of trust company incorporation's consideration of petitions for incorporation of savings banks.

HB 1167, an act relative to the police commission in the town of Conway.

HB 1182, an act authorizing the division of human services to establish a system to recoup child support payments made in error, clarifying confidentiality of certain information and allowing the division to close certain cases.

HB 1190, an act creating a committee to study ways to clarify the relationship between the legislative bodies and governing bodies in towns, school districts and village districts operating under the town meeting form of government with respect to budgetary matters.

HB 1202, an act permitting municipalities that have biennial municipal elections to submit charter changes for approval at biennial state elections.

HB 1211, an act permitting public employees to file an unfair labor practice complaint after a certain time without exhausting administrative remedies.

HB 1226-FN, an act to protect the department of transportation against liability in the construction and maintenance of highways and highway bridges.

HB 1238-FN, an act authorizing the reconstruction of the Route I-89 exits 18 and 20 interchanges in Lebanon.

HB 1252-FN, an act creating exceptions from and reciprocity for state water laboratory certification, clarifying the use of fees for certifying state water laboratories, and changing the special account into a special continuously appropriated revolving fund account.

HB 1254, an act relative to public employee labor relations board hearings.

HB 1268, an act relative to inspection and permit fees set by local legislative bodies.

HB 1308, an act relative to technical changes to the municipal charter laws.

HB 1345, an act allowing off-sale beer and wine licensees to advertise by signs and posters.

HB 1388, an act imposing a civil penalty in any proceeding in which a rule of a manufactured housing park owner is deemed unreasonable.

HB 1399-FN, an act changing the name of the board of examiners of psychologists to the board of examiners of psychology and mental health practice, expanding such board, and certifying mental health counselors.

HB 1402-FN, an act relative to competitive bidding purchases of services from nonprofit organizations by certain state agencies for severely disabled or emotionally disturbed children.

HB 1405, an act relative to appeal of tax assessments to the board of tax and land appeals and the superior court.

HB 1414-FN-A, an act relative to the medicaid plan to enhance the funding of services for children and families and making an appropriation therefor.

HB 1434, an act requiring employers advertising for replacement workers during a strike to state such in any advertisement.

HB 1436, an act relative to septic setbacks and terrain alteration permits.

HB 1447-FN, an act increasing witness fees for law enforcement officers.

HB 1452-FN-LOCAL, an act allowing the county treasurer to use call bonds and lines of credit as financial management tools.

HB 1462-FN, an act establishing a committee to examine all aspects of parole eligibility.

HB 1466-FN, an act modifying the advisory council on unemployment compensation.

HB 1501-FN, an act relative to unfunded state mandates.

HCR 20, a resolution urging the federal government to establish a post office in the town of Lee.

HCR 28, a resolution urging the federal government to restore full funding for prescription drugs for veterans with service related disabilities.

Senator Currier moved that we recess.

Adopted.

Recess.

Out of Recess.

LATE SESSION

Senator Delahunty moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until Tuesday, April 22, 1992 at 11:00 a.m.

Adopted.

Adjournment.

April 22, 1992

The Senate met at 11:00 a.m.

A quorum was present.

The prayer was offered by the Rev. Dawn Berry, Senate guest Chaplain.

In the spirit of hope, so alive in this season of rebirth, this Senate begins the day giving you thanks. O God, in these final days, they hope for brief debate; they hope for timely sessions, and each one hopes that, like spring in New Hampshire, the other will finally come around. Ah, God, what hopes! But you know, O God, and they know, that all hope is finally in you as they struggle through tough decisions, especially redistricting. Grant them the grace they need for this day. Bless them in their work that what they do has its place in the unfolding of your new creation. Amen

Senator St. Jean led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 321, repealing an exemption for town clerks relative to voter registration.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: C. Warburton, C. Holden, N. Flanagan, G. Gilmore.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 452-FN-L, redistricting certain district courts.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: A. Jacobson, E. Lown, D. Sytek, W. Knowles.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendment to the following entitled Bill sent down from the Senate:

HB 1140, relative to exempting New Hampshire banks from acquisitions by out-of-state banks and bank holding companies.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in its amendments to the following entitled Bill sent down from the Senate:

HB 1219-FN, relative to recovery of assistance under the medicaid program.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bills and Resolutions sent down from the Senate:

SB 350, expanding the membership of the task force on mental health and criminal justice and continuing the study of the interactions between the mental health and criminal justice systems.

SB 414-FN, authorizing a pilot program in one county for investigative services for attorneys providing counsel to indigent defendants.

SB 425-FN-L, relative to statement of expenses for costs incurred for response to forest and brush fires.

SB 462-FN, relative to optional allowances and beneficiaries under the New Hampshire retirement system.

SB 471-FN, authorizing child day care to certain AFDC clients.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendments to the following entitled Bills and Resolutions sent down from the Senate:

HB 61-FN, repealing the prospective repeal of the victims' assistance fund and making technical corrections in the distribution of penalty assessment funds.

HB 411, relative to discrimination in the issuance of health insurance, access to group plans, and health insurance during adoption proceedings.

HB 526-FN, relative to transfers to the state prison.

HB 693-FN, relative to forfeiture of items seized in connection with controlled drug offenses.

HB 1114, adding and changing certain definitions in the liquor laws and relative to the transportation of wine and liquor.

HB 1178, extending appropriations for the Manchester district court facility and for the department of environmental services.

HB 1283-FN, authorizing the human rights commission to award compensatory damages, levy administrative fines and award attorney's fees, and clarifying the jurisdiction of courts reviewing orders of the commission.

HB 1296, relative to beverage and liquor licenses for motor vehicle racetracks and removing a prohibition on certain card games.

HB 1298, allowing any municipal fire or police department, or independent emergency service, to record incoming and outgoing central dispatch and emergency telephone calls.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the passage of the following entitled Bills and Resolutions sent down from the Senate:

SB 353, relative to copying recordings.

SB 384, relative to foreclosures and sale of mortgaged property.

SB 397, relative to long-term job supports for severely disabled persons.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 399-FN-LOCAL, requiring rabies shots for cats.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: R. Grodin, J. Barnes, E. Clark, M. Fuller Clark.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from the Senate and request a Committee of Conference:

HB 1287-LOCAL, enabling certain municipalities to issue tax lien redemption notes and relative to the transfer of tax liens.

SENATE ACCEDES TO HOUSE REQUEST

HB 1287-LOCAL, enabling certain municipalities to issue tax lien redemption notes and relative to the transfer of tax liens.

Senator Bass moved to accede to a Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: D. Perry, P. Golden, J. Middleton, R. Gage.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: C. Bass, M. Nelson, J. Delahunty.

**HOUSE REFUSES TO CONCUR
REQUEST COMMITTEE OF CONFERENCE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from the Senate and request a Committee of Conference:

HB 1330, prohibiting certain credit card practices involving providers of travel services.

SENATE ACCEDES TO HOUSE REQUEST

HB 1330, prohibiting certain credit card practices involving providers of travel services.

Senator Fraser moved to accede to a Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: C. Dana Christy, J. Hunt, G. Philip Rodgers, G. Baker.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: L. Fraser, S. McLane, B. Pressly.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

SB 436-FN-L, relative to aid to the permanently and totally disabled and the property tax exemption for the blind.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 436-FN-L, relative to aid to the permanently and totally disabled and the property tax exemption for the blind.

Senator J. King moved concurrence.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 411-FN, relative to special education catastrophic aid.

SENATE CONCURS

SB 411-FN, relative to special education catastrophic aid.

Senator Disnard moved concurrence.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

SJR 1-FN, requiring the department of education to develop a computer education program for public schools.

SENATE CONCURS

SJR 1-FN, requiring the department of education to develop a computer education program for public schools.

Senator Disnard moved concurrence.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 306-FN-A, allowing bonus payments in recognition of service during the Persian Gulf War and making an appropriation therefor.

SENATE CONCURS

SB 306-FN-A, allowing bonus payments in recognition of service during the Persian Gulf War and making an appropriation therefor.

Senator Blaisdell moved concurrence.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

SB 437-FN, relative to the New Hampshire Dental Service Corporation.

SENATE CONCURS

SB 437-FN, relative to the New Hampshire Dental Service Corporation.

Senator McLane moved concurrence.

Adopted.

COMMITTEE REPORTS

HB 1347-A, an act designating money for the planning and design of a regional vocational education center in Milford. Capital Budget. Ought to Pass. Senator Fraser for the committee.

SENATOR FRASER: Mr. President, all that this bill does, this bill came out of the Education committee as ought to pass. The Capital Budget committee just took a quick look at it. The Department of Education assured us that they already had the money to do what this bill calls for. We urge it's adoption.

Adopted.

Ordered to third reading.

Recess.

Senator Delahunty in the Chair.

HB 1376-FN-L, an act requiring the department of environmental services to assume 20 percent of eligible costs of the Conway sewer system project and making an appropriation for costs payments. Capital Budget. Ought to Pass with Amendment. Senator Hough for the committee.

5969L

Amendment to HB 1376-FN-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT

relative to water pollution, including requiring the department of environmental services to assume 20 percent of eligible costs of the North Conway Water Precinct sewer system project, making an appropriation for cost payments, relative to aid for water pollution control for regional waste treatment facilities for Winnepesaukee river basin, establishing a grant program for water pollution, and relative to future funding of certain classified positions within the department of environmental services.

Amend the bill by replacing all after the enacting clause with the following:

1 Alternate State Contribution; North Conway Water Precinct Sewer System Project Costs; Department of Environmental Services. Amend RSA 486:3 to read as follows:

486:3 Alternate State Contribution.

I. The North Conway Water Precinct or any of the municipalities of Derry, Salem, Wolfeboro, Hampton, Sunapee, Rochester, Laconia or any other municipality in receipt of an order issued by the division according to its priority criteria to undertake the construction of sewage disposal facilities in accordance with the provisions of RSA 485 or 485-A without the benefit of a federal grant is entitled to an alternate state contribution. This alternate contribution shall consist of the payment of 20 percent of the annual amortization charges, meaning principal and interest, on the original costs resulting from the acquisition and construction of the sewage disposal facilities. The word "construction" shall include engineering services, in addition to the construction of new sewage treatment plants, pumping stations, and intercepting sewers; and the altering, improving or adding to existing treatment plants, pumping stations and existing intercepting sewers, provided that the construction has been directed by the division or is an undertaking designed to control or reduce pollution in the ground or surface waters of the state, as defined in RSA 485-A:2, and provided that the plan for the facilities is approved in accordance with RSA 485:8. The term "original costs" as used in this section shall mean the entire cost of the construction as defined above, excluding land acquisition, easements, and rights of way necessary to the project.

II. In addition to any state contribution provided in paragraph I, the commissioner of the department of environmental services, with approval of the governor and council, may, upon review of plans submitted by a municipality, grant 10 percent of a necessary project's costs, provided that the municipality clearly demonstrates that the project costs will result in user fees that are significantly above-average and as such will adversely impact the municipality's residents or industrial or commercial activities.

2 Costs; North Conway Water Precinct Sewer System Project.

I. The department of environmental services shall determine the eligible costs of the North Conway Water Precinct sewer system project paid by the North Conway Water Precinct at any time prior to fiscal year 1993 and all eligible costs of the North Conway Water Precinct sewer system project paid by the North Conway Water Precinct during fiscal year 1993. The department shall assume 20 percent of such costs and the interest costs related to that 20 percent on bonds issued on such project, paying the eligible costs paid prior to fiscal year 1993 from fiscal year 1992 moneys and the eligible costs paid during fiscal year 1993 from fiscal year 1993 moneys.

II. The amount determined under paragraph I for fiscal year 1992 is hereby appropriated from funds already appropriated for fiscal year 1992, and the amount determined under paragraph I for fiscal year 1993 is hereby appropriated from funds already appropriated for fiscal year 1993, to the department of environmental services for water pollution state aid grants.

III. In addition to any other payments by the state of New Hampshire to the North Conway Water Precinct, the sum of \$500,000 is hereby appropriated for fiscal year 1992 from funds already appropriated for fiscal year 1992, and the sum of \$500,000 is hereby appropriated for fiscal year 1993 from funds already appropriated for fiscal year 1993, to the department of environmental services for water pollution state aid grants.

3 New Paragraphs; New State 20 Percent Grant Program for Water Pollution. Amend RSA 486:1 by inserting after paragraph II the following new paragraphs:

III. Notwithstanding the provisions of paragraph I and II, beginning July 1, 1993, the state of New Hampshire shall pay 20 percent of the annual amortization charges, meaning principal and interest on the costs resulting from the acquisition and construction of sewage disposal facilities by municipalities (meaning counties, cities, towns, or village districts), for the control of water pollution.

(a) The word "construction" shall include:

(1) Engineering services related to construction activities identified under this paragraph;

(2) The construction of new sewage treatment plants, pumping stations, intercepting sewers, and sewer separation by storm drains when the latter can be demonstrated as a cost-effective method of eliminating a combined sewer overflow structure; and

(3) The altering, improving or adding to existing treatment plants, pumping stations, intercepting sewers, and sewer separation by storm drains when the latter can be demonstrated as a cost-effective method for eliminating a combined sewer overflow structure.

(b) Construction undertaken under this paragraph shall be required to constitute an undertaking designed to control or reduce pollution in the ground waters or surface waters of the state as defined in RSA 485-A:2, and plans shall be approved in compliance with the provisions of RSA 485:8, RSA 485-A:4, IX, and RSA 485-A:4, XII.

(c) The word "costs" as used in this paragraph shall mean the eligible costs of the construction of treatment plants, pumping stations, intercepting sewers and sewer separation by storm drains as defined in the Clean Water Act of 1977, as amended, and as further

defined in rules and regulations promulgated by the U.S. Environmental Protection Agency as provided for in the Clean Water Act of 1977, as amended.

(d) The term "eligible costs" as used in this paragraph shall exclude land acquisition, except for land which shall be an integral part of a treatment process; easements and rights-of-way necessary to the project; collector sewers; and any administrative, legal, and fiscal costs related to the project.

IV. The commissioner of the department of environmental services shall:

(a) Establish and maintain a priority list of projects eligible to receive grants pursuant to RSA 486:1, III. The priority list shall contain the following:

(1) A section listing the highest priority projects ready for construction and anticipated to receive grants from appropriated funds within the next fiscal year; and

(2) A section listing the projects that may receive grants from appropriations in subsequent fiscal years.

(b) The commissioner or his designee shall hold an annual public hearing to receive testimony on the projects recommended by the department to receive grants in the next fiscal year. After considering the testimony offered at the hearing, the commissioner shall finalize the priority list for the next fiscal year, and project assistance shall be granted accordingly.

(c) The commissioner shall continue to use the priority system as approved by the U. S. Environmental Protection Agency in accordance with 40 CFR Part 35 to rank projects for placement on the lists established under RSA 486:1, IV(a).

(d) The lists and priority system required by RSA 486:1, IV shall not be considered rules subject to the provisions of RSA 541-A.

V. The division shall perform the following functions related to administration of the provisions of RSA 486:1, III:

(a) Evaluate and recommend projects to be placed on the priority list established under RSA 486:1, IV.

(b) Assist municipalities to:

(1) Perform preliminary project planning and design.

(2) Select a qualified consulting engineer.

(3) Negotiate an engineering services agreement in accordance with the provisions of RSA 485-A:4, XII.

(4) Develop an acceptable grant application for funding under RSA 486:1, III.

(5) Conduct pre-construction conferences.

(6) Resolve any bid protests filed during the bidding period.

(7) Accomplish tasks necessary during the start-up phase of wastewater treatment plants or major pumping stations.

(c) Review and approve preliminary and final facilities plans for the proposed project.

(d) Review construction plans and specifications in accordance with RSA 485:8 and RSA 485-A:4, IX.

(e) Process grant applications for state approval.

(f) Approve construction plans and specifications and issue authorizations to advertise contracts for bids.

(g) Review and approve any revisions to plans and specifications prior to formal advertisement by the municipality.

(h) Review and approve formal addenda to plans and specifications during the formal advertising period.

(i) Review bid documentation to establish the low responsive and responsible bidder.

(j) Issue authorization to award the construction contract to the lowest responsive and responsible bidder.

(k) Perform periodic site inspections to insure compliance with executed construction contract documents.

(l) Review and approve operation and maintenance manuals.

(m) Review and approve change orders during the construction period.

(n) Review all invoices related to the project submitted to the grantee on a monthly basis.

(o) Conduct a final inspection of completed facilities and certify substantial completion.

(p) Based upon a satisfactory final project inspection, review and approve final eligible project costs.

4 Future Funding of Existing Positions; Department of Environmental Services. It is the intent of the legislature that beginning July 1, 1993, the following classified positions shall be funded by the general fund to implement the provisions of RSA 486:1, III, IV and V:

I. Position number 12025, civil engineer V.

II. Position number 12111, civil engineer V.

III. Position number 12113, civil engineer VI.

IV. Position number 12129, sanitary engineer III.

V. Position number 18324, grant program coordinator.

5 Water Supply and Pollution Control. Amend 1983, 423:1, IX as amended by 1987, 399:17 to read as follows:

IX. Division of Water Supply and

Pollution Control -

Regional waste treatment facilities -

Winnepesaukee river basin

[\$ 6,660,000] 7,164,000

less federal

[-2,995,000] -2,248,000

less local

[-333,000] -358,200

Total paragraph IX

[\$ 3,332,000] 4,557,800

6 Bonds Authorized. Amend 1983, 423:8 as amended by 1985, 44:19 and 1985, 390:3 and 1987, 131:3 and 1987, 339:17 to read as follows:

423:8 Bonds Authorized. To provide funds for the total of the appropriations of state funds made in sections 1, 2, 3, and 4 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of [\$24,577,345] **\$25,803,145** and for said purposes may issue bonds and notes in the name and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A; provided, however, that the bonds issued for section 1, I, B; II, E; III, B, C, D, E(1), (2), and (4), F, G; IV, A(4); VI, A-D, and F; VII, B; X, A-J; section 3, I, B; II, D and E; section 4, I, A-C; shall have a maturity of 5 years from date of issue.

7 Effective Date.

I. Section 3 of this act shall take effect July 1, 1993.

II. The remainder of this act shall take effect upon its passage.

AMENDED ANALYSIS

This bill requires the department of environmental services to determine the eligible costs of the North Conway Water Precinct sewer system project and assume 20 percent of such costs and the interest costs related to that 20 percent on the project bonds.

This bill also increases the amount of money available for water pollution control for the Winnepesaukee river basin and increases the bond authorization.

This bill also establishes a 20 percent state grant program for water pollution and supports the future funding of existing classified positions within the department of environmental services.

SENATOR HOUGH: You will see an amendment to the calendar which has the Capital Budget committee's amendment to the Conway North Water District problem. In the amendment . . . the reason that you have . . . it is the document with this sheet on it, and the reason that you have it, is that when it got drafted out of Legislative Services, it was late last evening. The report of the committee is in your regular calendar as ought to pass with amendment, but this is the document that wherein you will find the language of the amendment. To begin with, it takes care of the final phase of the Winnepesaukee river basin project, which has to do with extending the system to Gunstock. This is the area that Senator Fraser is interested in and it brings that to completion. Further, the amendment establishes a 20 percent state support for projects that are initiated in the communities, outside of order from the Department of Environmental Services. It further allows for a 10 percent increase in state support for those projects that are brought forward in the area of economic and industrial development. This helps the communities

to attract new industries and provide employment. Finally, as we get to the North Conway Water Precinct problem, the community without the support of this legislation would find itself in default and the state would be faced with picking up 100 percent of the \$9,000,000 already expended and in the ground. This amendment allows them to complete the project and get it on line as a result of the most recent requirements of the Department of Environmental Services. It gives them effectively a \$500,000 - \$500,000 - \$1,000,000, specific state subsidy to get them over the hurdle. This problem in North Conway is analogous to the old Lincoln problem in the early 70's wherein the communities went forward in good faith to the designing, and construct the facility, and during the course the State and Federal Environmental Services changed the rules and required them to have a capacity in terms of water quality that was greater than initially envisioned, and they find themselves halfway through the project now and the costs are as such that the members of the precinct could not meet the existing obligations; and it is just good money sunk into the ground, and we have to bring this forward. It is in fact, the state bailout, but that is the recommendation of the committee on this amendment.

SENATOR HUMPHREY: Well the original bill just dealt with the Conway situation, is that correct?

SENATOR HOUGH: Not as it came from the House, Senator Humphrey. The bill as it was amended in the House, opened up 20 percent state support of local projects for all communities. We didn't change that feature, that is how it was when it arrived in the Senate.

SENATOR HUMPHREY: Yes, but this business of the extension to Gunstock was not in the original?

SENATOR HOUGH: That was inserted at the request of Senator Fraser. The Winnepesaukee river basin project started in the mid 60's and probably was the largest water project in the state of New Hampshire and this is the final step, it extends the system into Gilford, Gunstock recreation area. I would defer to my colleague on the committee, Senator Fraser, if you have specific questions on the Winnepesaukee river project, because he would have better information on it.

SENATOR HUMPHREY: Has there been a hearing on this proposal?

SENATOR FRASER: Yes.

SENATOR HUMPHREY: In connection with what bill?

SENATOR FRASER: In connection with the Winnepesaukee river basin and the North Conway piece, we had a public hearing in the Capital Budget committee.

SENATOR HUMPHREY: Was there a bill submitted this year relative to the Gunstock extension?

SENATOR FRASER: It was amended. The original bill had to do with North Conway and it was amended to add the Winnepesaukee river basin in addition to that bill.

SENATOR HUMPHREY: At what stage of the process was it amended?

SENATOR FRASER: It was introduced in the Capital Budget committee.

SENATOR HUMPHREY: And then the committee held a hearing on those two provisions?

SENATOR FRASER: That is right.

SENATOR HUMPHREY: Is this fiscal note on HB 1376, is this still accurate in connection with this amendment that we now have?

SENATOR FRASER: What page are you on, Senator?

SENATOR HUMPHREY: Well, I am looking at HB 1376, the fiscal note at the back. The last page of the bill. I am trying to find out what the fiscal impact is, that is my bottom line question.

SENATOR HOUGH: First of all, there will be assistance to the North Conway river basin precinct, which will be a \$500,000. You will see if you look at the biennial budget that was passed last June, that we bonded, if you will, \$31,000,000 over two years. Within that bonded authorization, there is sufficient funds, encumbered money to take care of the \$500,000 - \$500,000 of the North Conway specifically, so there is no additional there. The bill as it was amended in the House and sent to the Senate, effectively replaces prior federal support that is no longer coming forward. The magnitude as far as the state is concerned, with 20 percent of all future projects. If every project that was designed and came on line as supported by the local communities, it could be in excess of \$100,000,000. But you have to remember that communities are going to have to assume 80 percent of the cost of the projects now. That 80 percent is a significant responsibility for the local communities and they would be very reluctant to enter into any projects knowing that they are only going to get 20 percent state support. In the old days, they used to get 80 percent federal support, 15 percent state, and 5 percent local. This is minimal support.

SENATOR HUMPHREY: Well, do I understand that we are in effect launching a new program to provide 20 percent state match to local communities for sewer projects?

SENATOR HOUGH: In the absence of federal support that is no longer available, which was 80 percent support, so the tables have turned. If your question is . . . the bill as it came from the House, Gordon . . .

SENATOR HUMPHREY: May I restate the question? I am simply trying to get an answer to a simple question. Are we establishing a new program to provide a 20 percent federal match for local sewer programs in this bill?

SENATOR HOUGH: The state match . . .

SENATOR HUMPHREY: Did I say federal, because that is what I meant?

SENATOR HOUGH: The answer to your question is, yes.

SENATOR HUMPHREY: Would this bill that we are being asked to approve, will a new program that will provide to any locality that applies, and which project is qualified, a 20 percent state match?

SENATOR HOUGH: That is correct.

SENATOR HUMPHREY: That is in the amendment here or in the bill?

SENATOR HOUGH: The bill as it was amended in the House does what you have just asked. We have not negated the House its action in our amendment.

SENATOR HUMPHREY: I understand, but the House Bill before us, creates this new program. Is that correct?

SENATOR HOUGH: That is correct.

SENATOR HUMPHREY: In what other ways does this amendment change the bill?

SENATOR HOUGH: This amendment accommodated while . . . the Senate position on this bill provides 10 percent incentives for economic development. Okay?

SENATOR HUMPHREY: Meaning what? It has nothing to do with sewers?

SENATOR HOUGH: Extending waste water treatment on sewer lines, if you will, into areas that will accommodate industrial development. That is what it does. Ten percent incentive to help the communities with extending economic development, industrial

development, creating jobs. There are communities that can't accommodate new factories because the systems are at capacity so they have to expand or extend the line. It takes care of it. The North Conway water precinct, specifically, and it brings to conclusion, the Winnepesaukee river basin with Gunstock which is the interest of Senator Fraser. The Senate has done three things. First of all, it effectively accomplished the purpose for which the bill was introduced, namely, North Conway water precinct; because the bill as it came from the House did not accomplish the objectives of the bill as it was introduced, mainly taking care of the North Conway project. There was an attempt, but it was a failed attempt. We have effectively taken care of North Conway. Hence having taken care of North Conway, we have given a 10 percent incentive for industrial development that brought to conclusion the Winnepesaukee river basin now to Gunstock and Gilford. Those are the three things that the Senate amendment does.

SENATOR HUMPHREY: Is the design complete on these two projects?

SENATOR HOUGH: Winnepesaukee, yes. The problem, as I understand it, in North Conway is, yes. The design is complete that they initiated the North Conway Water precinct project. They used a set of requirements in terms of quality of the sewer.

SENATOR HUMPHREY: The quality of the sewerage?

SENATOR HOUGH: Whatever, but the state and federal people changed the requirements that would be ultimately necessary after the project . . . that is where the problem is, Gordon. They built the whole thing from day one and got it on line, and complete, it would have been of a lesser quality than we are now required to have and that is what's tipped the balance for those people.

SENATOR HUMPHREY: If Conway, as one example, is able to afford bond 80 percent or otherwise, finance the cost of 80 percent of the project, why not 100 percent? Why is there the necessity of, as you put it, Senator Hough, a state bail-out?

SENATOR HOUGH: North Conway has been victimized by the system between the start of the project, and the yet to be completed project, because what was envisioned to be in the vicinity of \$8,000,000-\$9,000,000 is now going to ultimately be twice that amount, because of the environment, Federal EPA standards. As I understand it, it is the Mount Washington Valley Environmental Needs that got themselves in over their heads. If we do nothing, that precinct will be in default and the state will have to pick up 100 percent of the present cost and there will be no treatment plant at all, just pipes in the ground.

SENATOR HUMPHREY: Well, Mr. President, I just don't think that it is a good idea to be starting another entitlement program, in this case, for municipalities under which the state will provide a 20 percent grant for local utilities. It is one thing to build a highway through a community that serves persons of all communities and the economy as a whole, it seems to me. It is another thing to begin subsidizing the communities in projects that are almost totally to their own benefit. Given the precarious fiscal situation that we face, and the certainty of a fiscal train wreck within a few years, if we don't soon change our generous ways. I simply want to be recorded as in opposition to this bill.

SENATOR FRASER: My colleagues in the Senate, I would like to just briefly talk about the Winnepesaukee river basin. The Winnepesaukee river basin intercept has been in the plans since the 60's, but unfortunately, the Department of Environmental Services kept dropping it down the priorities list. When the plan was started, Senator Humphrey, there were federal funds available. Suddenly they have to complete the interceptor now by 1994 and in the meantime, federal funds are no longer available and that is why we are trying to bring some of these in the Gunstock area.

SENATOR PODLES: Senator Hough, would you explain the appropriation of \$500,000 in this bill?

SENATOR HOUGH: Yes, to restate, because Conway finds itself in an unusual system, this \$500,000 each year is a direct, if you will, state bailout for North Conway. But bear in mind that the appropriation is in the operating budget; last year, \$31,000,000 of bonding for sewer projects, it is already authorized. That authorization will accommodate this \$500-\$500,000, so that is not a change. We had, if you will look at your biennial operating budget section; do you remember the subject last year in conference, should we be bonding water projects? Do you remember that? That was a significant part of the negotiations with up front cash of \$5,000,000. They bonded \$31,000,000 for the biennium and under the \$31,000,000 bonded authorization we would accommodate our obligation to communities with water projects. That authorization has unencumbered which will accommodate \$500,000 each year for North Conway. So it is not a new authorization, it is done under the existing authorization.

SENATOR PODLES: So it is in addition to the 20 percent?

SENATOR HOUGH: You are absolutely right, but it is not an addition to the present authorization for bonds.

SENATOR SHAHEEN: I rise to speak in support of this bill; and while I certainly understand, Senator Humphrey, your concerns about starting another program and trying to live within our

budget, you know, the fact is, that clean water is not an issue that affects only the town that is involved. If the city of Dover doesn't treat it's sewerage, it goes into the Cocheco River and it affects everything downstream from us. If we don't treat the sewerage, then it goes into the ground water. This is not a problem that we can just leave to communities and say that they have to come up with the cost. The state has a responsibility here. We are either going to pay now or we are going to pay later. You know, if we needed an example of the importance of getting involved and doing what we need to do at the time, all that we have to do is to look at what happened in Chicago last week. For \$10,000 a failure to fix the crack in the sewer, there is a multi-million dollar cost today. I don't think that we can get into a position of saying that we aren't going to help communities, so we are not going to have clean water. The future depends on the availability of clean water, and we have a responsibility to help communities.

SENATOR HUMPHREY: Senator Shaheen, is the Senator saying that our towns are totally without ability to bond their own projects, that it is utterly essential that state . . . and by the way, it is not only 20 percent, if you look closely, it is up to 30 percent that the state will have to match. Only if the state provides it's 20 or 30 percent match, can the towns possibly undertake this project, is that what this Senator is saying?

SENATOR SHAHEEN: I am saying that for many communities in this state, in order for them to assume the cost of making sure that they have clean water, the state has a responsibility to help, and I will give you an example. The city of Dover paid more for it's sewerage treatment plant than it did for any capital project in the city's history. The only reason we were able to afford it was because the state of New Hampshire jumped in and helped. I think that we have a responsibility to help other communities in that way.

SENATOR HUMPHREY: The Senator didn't really answer my question. Is the Senator saying that communities can't bond these projects in their entirety?

SENATOR SHAHEEN: I believe that is the case in a lot of the communities, yes.

SENATOR HUMPHREY: A lot of communities.

SENATOR SHAHEEN: And it certainly is the case in the Conway situation.

SENATOR HUMPHREY: But we are offering this to all communities.

SENATOR SHAHEEN: That's right, I understand that.

SENATOR HUMPHREY: Without any qualification.

SENATOR DUPONT: I would like to speak, and maybe I can draw some parallels that will make it easier for the members of this body to understand really what is going on. The federal government years ago, passed a clean water act, and as part of the clean water act they contributed money for the construction of many of the sewerage treatment plants in the state of New Hampshire; as part of that process, the state of New Hampshire contributed. The existing law says that if there is a federal mandate, the state will contribute the 20 percent. There may also be a state mandate for some of these communities to do these projects in addition to the federal mandate and it makes no sense now, because the federal government has pulled back all of the money that has helped us build these projects in the past that the state walks away from the obligation, even though the mandate is still there. Rochester is a classic example. In 1980 we built the sewerage treatment plant in Rochester and a water treatment plant, we spent approximately \$30,000,000 on the two projects. We had federal funding for sewer, we didn't have federal funding for water. Today, the federal government with the assistance of the state Department of Environmental Services in there mandating advance water treatment for the city of Rochester, another \$15,000,000 project with no federal or state money. Rochester has probably the highest sewer and water rates in the whole state right now. Industry is going to move out of some of these communities if we can't come up with a way of at least assisting those communities in helping with that cost. We as a state have determined that clean water is important. I don't think that there is any question that many of the communities in our state don't have the capacity to build treatment facilities that are being mandated on them by both the state and the federal government. This is the minimum that we can do as a state, participate in that, and quite frankly, there are communities that probably wouldn't undertake these projects if in fact we didn't provide some assistance to them. So this is good public policy. If you are an environmentalist, it is good public policy, if you are concerned about the fiscal integrity of our local communities, this is good public policy, and if you are concerned about jobs and if you are concerned about communities ability to also be supportive of our environment but still provide opportunities for its citizens, this is good public policy. So this body ought to stand behind this today and support the good work that our committee has done in putting this together and let us move on to the rest of the business of the Senate today. As we go through this process of looking at what Senator Humphrey's concerns are, there are many pieces of legislation out there that deal with using the bonding ability of the state of New

Hampshire to assist. We all recognize at some point in this process, we are going to have to prioritize. And, Senator Humphrey, we will consider those concerns; but when you look at what those concerns are going to be, we have to weigh the public benefit, and this is important legislation for the public of our state.

SENATOR HUMPHREY: Senator Dupont, I agree with much of what you said, but my question is: why do we have to approach this carte blanche? This is not just a bill to help Conway, which has a unique problem, this is a bill that will help any community that comes to the state and says that they want their 20 or 30 percent. That is the difference between my point of view, I think, and yours.

SENATOR DUPONT: Senator, I do not believe that there will be communities in the state of New Hampshire undertaking major capital projects that they don't have to, to complete those projects. And whether that project is an addition to a sewer plant capacity or an extension of a main to tie into an industrial park or an extension of a main could threaten some residents of that community that are presently on their own system, to get off. This is not something that is going to be preciously used by the communities of our state. I mean what we are saying here is a matter of public policy that we are going to participate. The federal government has made its decision to walk away and we are going to say that the state of New Hampshire is not going to.

SENATOR HUMPHREY: Senator Dupont, but the bottom line is that any community henceforth, that undertakes a sewer project, will be entitled to at least 20 percent match from the state?

SENATOR DUPONT: Senator, that sewer project is being done as a result of having to comply with federal requirements for the clean water act, they will get funded. As I said earlier, I don't think that a community goes out one day and says just for the heck of it, let's build a water treatment or sewer treatment plant, that there is a reason why these facilities are being constructed, and part of that reason is that as a state, we have adopted policy that says that we want clean water. I think that this is part of the state's mission; and unfortunately, as I have said earlier, the federal government has completely walked away from it and we are left on our own and I think that the state has a responsibility to try and move in and fill that gap.

SENATOR HUMPHREY: I thank the Senator.

SENATOR NELSON: Senator Dupont, I just want to make sure that I understand what you said. Is it because the feds have cut back and cut these programs time and time again so that the locals are forced to deal with this and the state has to step in?

SENATOR DUPONT: Senator, the federal mandate has not disappeared, the dollars have; and whether it be Rochester or Nashua or Manchester, we have made a commitment to assist the communities; and because the federal government has walked away, I don't think it is responsible state policy that we walk away, too.

SENATOR NELSON: Senator Dupont, on page two of the bill, isn't the other 10 percent only with the approval of Governor and Council and the Department; and they may, upon review, grant them that? But it is not necessarily . . .

SENATOR DUPONT: That is correct, Senator. I think that you will find that in this state that there are a number of communities who because of the situations that have evolved, do not have the capacity even to put up their 80 percent, so that we ought to be putting up more in those cases. Quite frankly, it ought to be more than 10 percent.

SENATOR HEATH: Senator Humphrey, wouldn't you concur that at least 20 percent of the benefit of cleaning up the Saco or cleaning up Winnepesaukee would accrue to the rest of the state through tourism and through the movement of water and other things that would occur from the clean water?

SENATOR HUMPRHEY: Well, as Senator Shaheen, in response to one of my questions, persuaded me to that point of view, but my concern remains, that we ought to do this on an ad hoc basis instead of writing a blank check, well perhaps that is overstating it, instead of offering this benefit to every community that seeks to build a sewer, that we deal with it on an ad hoc basis. We are undertaking, taking on a massive, new, financial commitment when this state is already bankrupt. I think that it is most unwise to approach it on that basis.

SENATOR HEATH: But don't you think that the threshold is pretty steep, so it won't be used capriciously where you have to have this mandated cost and they may only get 10 percent if the Governor and Council don't approve of the other 10 percent, but they have to put up the other 80 percent which is going to be an enormous burden on the taxpayer in any community, isn't that a pretty high threshold to . . .

SENATOR HUMPHREY: Well, Senator, my response would be to ask a question. Why do you suppose the feds have stopped making this payment? Because the federal government is bankrupt and we are bankrupt, too. For the same reason, we can't afford to be taking on additional burdens.

SENATOR HEATH: With all due respect, would you believe that the federal government has driven policy for years by starting something and moving on to other priorities and dropping the bag onto the states? It is not that they're bankrupt, because that never stopped it from spending, would you believe that?

SENATOR HUMPHREY: Yes.

SENATOR OLESON: Mr. President, I was going to ask a question of Senator Dupont, but he isn't in the room right now, so may I speak?

SENATOR DELAHUNTY (In the Chair): Go ahead, Senator.

SENATOR OLESON: In this area, I think I have been quite acquainted with for a couple of decades. One incidental thing is that when this clean water act, when nobody knew what it meant, we had a facility on the Connecticut river in my town of Colebrook, and at that time the formula was some 60 percent of the federal money, and some 35 of the state, and 5 for the local, which the interest was paid for by the state. Fortunately, some of us in some areas took advantage of it and we were quick with the book work until more or less the money dried up, and even a couple of sessions ago, we came down with what we called the dirty dozen to clean up certain towns that were left. What I am trying to say, I believe, is that if we believe in clean water in the state of New Hampshire, this is a chance to put your money where your mouth is and not just write a few words on a meaningless piece of paper or saying what our intention is or isn't. Not even appropriate the money to enforce what we would like to do, I think fair is fair. Seeing that my area and my town and one thing and another took advantage of it and was financially backed, that the other towns in New Hampshire for one reason or another should have a little piece of the pie, therefore, I am in favor of this bill.

SENATOR W. KING: To keep you happy, Mr. President, I will be very brief. This is not just an issue of clean water, we all know how important that is. This is also a very important economic development issue. The fact is that a corporation for enterprise and development recently issued its report on the economic health of states all over the country, one of the most crucial issues that was raised by the corporation for enterprise development was the lack of good infrastructure, particularly in the area of waste disposal and water treatment systems in the state of New Hampshire as being a major issue on holding back our economic growth. It seems to me that we need to recognize that yes, there is a clean water benefit to doing this, but there is also an economic benefit which helps to dry the

revenues that the state receives so that we can continue to serve the needs of our citizens. If we have a stronger economy, obviously, all revenues and the income of our citizens all increase and we all benefit from that. Good sewerage and good water treatment, good infrastructure is critical to that.

Senator Blaisdell moved the question.

Adopted.

Committee amendment adopted.

Ordered to third reading.

Senator Humphrey in opposition to HB 1376.

HB 1493-A, an act relative to extending the east-west highway study deadline. Capital Budget. Ought to Pass with Amendment. Senator Shaheen for the committee.

5768L

Amendment to HB 1493-A

Amend the title of the bill by replacing it with the following:

AN ACT

increasing the appropriation to the east-west highway study and extending the study deadline.

Amend the bill by replacing all after the enacting clause with the following:

1 East-West Highway Study; Appropriation Increased. Amend 1986, 203:8, as amended by 1988, 266:2 and 1990, 244:2 to read as follows:

203:8 Appropriation. The sum of [\$1,000,000] **\$1,995,000** is hereby appropriated to the department of transportation for the biennium ending June 30, 1987, for the purpose of an environmental impact study and preliminary design plans for [a 4-lane] **an** east-west highway from the Concord area to the tri-city area of Rochester, Dover and Somersworth. The New Hampshire general court directs the department of transportation to study improved highway access from central New Hampshire to the tri-city area of Dover, Rochester and Somersworth. This shall be a nonlapsing appropriation and in addition to any other appropriation for the department of transportation for the biennium.

2 East-West Highway Study; Bonding Authority Increased. Amend 1986, 203:23, II as amended by 1988, 266:4 to read as follows:

II. To provide funds for the appropriations in section 8 and 8-b of this act, the state treasurer is hereby authorized to borrow upon the

credit of the state not exceeding [\$3,500,000] **\$4,495,000** and for said purpose may issue notes and bonds in the name and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A. The funds derived from the notes and bonds issued pursuant to this paragraph which exceed [\$1,000,000] **\$1,995,000** shall be used to repay the highway surplus account for the funds authorized by the fiscal committee and governor and council pursuant to 1986, 203:8-b.

3 East-West Highway Study; Deadline Extended. Amend 1986, 203:8-a, as inserted by 1988, 266:2, as amended by 1990, 244:3 and 1991, 263:2 to read as follows:

203:8-a Deadline. The department of transportation shall complete the study authorized by 1986, 203:8 by March 31, [1992] **1993**.

4 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill increases the appropriation to the east-west highway study and extends the study deadline.

SENATOR SHAHEEN: If you look at the amendment of page five and the first amendments packet, the amendment really restores the original bill that was introduced in the House. It adds back in \$995,000 that was included in the original House Bill, which is needed to complete the study on the east-west highway. It extends the deadline for completion of that study to March of 1993 and it changes the original language in the study of the highway so that it doesn't just require a four-lane highway, but it can look at just an east-west highway. So if the study comes out and says that all that we need is a two-lane highway between Concord and the coast, the study can make that recommendation. I urge the Senate to support the amendment.

Committee amendment adopted.

Ordered to third reading.

HB 1401, an act requiring the mandates task force to study the impact of the development of the prison facility in the city of Laconia. Economic Development committee. Ought to Pass. Senator Bass for the committee.

SENATOR BASS: Mr. President, as you may recall, last year when we established the new function for the former Laconia State Hospital as Camp Success, we also added an amendment which would sunset that use after five years. What this bill does is establish a task force to study or make recommendations for what the facility should be used for after the five year period expires. The committee urges your adoption for its report of ought to pass.

Adopted.

Ordered to third reading.

HB 264-FN-A, an act placing hazardous waste transporter permit application fees in the hazardous waste cleanup fund. Environment committee. Ought to Pass with Amendment. Senator W. King for the committee.

5937L

Amendment to HB 264-FN-A

Amend the title of the bill by replacing it with the following:

AN ACT

placing hazardous waste transporter permit application fees in the hazardous waste cleanup fund, requiring notification of associated costs of converting fuel heating systems, restricting the filling of liquefied petroleum gas containers, relative to the state advisory board of fire control, and substituting the New Hampshire Association of Fire Chiefs for the state advisory board office control for purposes of nominating the state fire marshal.

Amend the bill by replacing all after section 5 with the following:

6 New Subdivisions; Conversion of Fuel Systems; Filling of Liquefied Petroleum Gas Container. Amend RSA 339-B by inserting after section 12 the following new subdivisions:

Fuel System Conversion

339-B:13 Duties of Suppliers. Any fuel supplier who installs a fuel heating system, at the request of a property owner, where a different type of fuel heating system already exists, shall be responsible for the following:

I. Securely capping both ends of all fill pipes connected to the fuel tank, or rendering them inoperable.

II. Notifying the property owner of all costs associated with the installation of the new system including:

(a) Removal of any fuel remaining in the fuel tank.

(b) The costs of capping all fill pipes.

339-B:14 Notification. Any fuel supplier requested to convert a fuel oil system shall supply the property owner with a notice, supplied on a separate sheet of paper, of the costs associated with the conversion as provided in RSA 339-B:13.

Filling of Liquefied Petroleum Gas Containers

339-B:15 Definitions. In this subdivision:

I. "Liquefied petroleum gas" means any material that is composed predominantly of any of the following hydrocarbons or mixtures of those hydrocarbons:

- (a) Propane.
- (b) Propylene.
- (c) Normal Butane.
- (d) Isobutane.
- (e) Butylenos.

II. "Owner" means any person who holds title to a liquefied petroleum gas container.

339-B:16 Unlawful Use of Containers. No person except the owner, or a person authorized in writing by the owner, shall fill or refill a liquefied petroleum gas container with a capacity of or greater than 100 pounds with a liquefied petroleum gas or any other gas or substance.

339-B:17 Penalties. Any person, firm or corporation, or any officer, agent, servant or employee thereof, who violates the provisions of RSA 339-B:13 - 339-B:16 shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person.

7 Members Added. Amend RSA 153:2 to read as follows:

153:2 Membership and Organization. There shall be a state advisory board of fire control consisting of [9] **11** members appointed by the governor with the advice and consent of the council. The members shall be persons with experience and background in (1) a manufacturing industry; (2) the storage of petroleum products and in standard safety precautions with reference thereto; (3) the position of forest fire warden and who is a chief of a volunteer or full-time fire department; (4) fire insurance underwriting, including knowledge of national standards of construction, causes of fire loss and regulations pertaining to fire safety; (5) the position of chief of a municipal fire department; (6) a registered architect; (7) a chemical engineer; (8) an electrical engineer; [and] (9) the position of chief of a volunteer fire department **(10) natural gas distribution; and (11) propane gas distribution**. Members shall be appointed for terms of 5 years. One member of the board shall be designated as chairman thereof by the governor.

8 State Fire Marshal Recommending Body Changed. Amend RSA 21-P:12, I to read as follows:

I. Investigation of the causes and circumstances of fires, fire safety regulations and education, coordination of state agency response to accidents involving hazardous materials, and regulation of liquid propane gas pipeline safety, except propane gas pipelines regulated by the public utilities commission pursuant to RSA 362. This bureau shall be known as the bureau of fire safety and shall be under the supervision of an unclassified administrator of fire safety, who shall also be known as the state fire marshal. The state fire marshal shall be nominated by the commissioner of safety on recommendation of the director of fire service from a list of 3 candidates submitted by the [state advisory board of fire control] **New Hampshire Association of Fire Chiefs**, for appointment by the governor, with the consent of the council, and shall serve a term of 4 years until a successor is appointed. The state fire marshal shall be a citizen of this state or become a citizen of this state within one year of his appointment and be academically and technically qualified. He shall devote his entire time to the duties of the bureau of fire safety and shall receive the salary specified in RSA 94:1-a.

9 State Fire Marshal Nominating and Recommending Bodies Changed. Amend RSA 153:7 to read as follows:

153:7 State Fire Marshal. There shall be a state fire marshal who shall be a citizen of this state and shall be technically qualified by training and experience in the prevention, extinguishing and investigation of fires at the time of his appointment. He shall be [appointed] **nominated** by the [governor and council] **commissioner of safety on recommendation of the director of fire service** from a list of at least 3 [nominees] **candidates** submitted by the [state advisory board of fire control for an indefinite term, which shall not extend beyond his sixty-fifth birthday. He shall be subject to removal at any time by the governor and council for inefficiency, neglect of duty, or malfeasance in office, after hearing, with reasonable notice in writing of the charges against him] **New Hampshire Association of Fire Chiefs, for appointment by the governor, with the consent of the council, and shall serve a term of 4 years until a successor is appointed.** The office of the state fire marshal shall be located in Concord in suitable quarters provided by the state. He shall receive the annual salary prescribed by RSA 94:1-4. Such officer shall devote his entire time to the duties of the office and he shall discharge such duties and responsibilities as are delegated to him by law.

10 Effective Date.

I. Sections 6-9 of this act shall take effect 60 days after its passage.

II. The remainder of this act shall take effect July 1, 1993.

AMENDED ANALYSIS

This bill places all hazardous waste transporter permit application fees in the hazardous waste cleanup fund. This bill adds definitions relative to hazardous waste and increases the limit on the use of fund moneys by the division of waste management from \$325,000 to \$600,000.

This bill requires any fuel supplier who installs a fuel heating system, where a different type of fuel heating system already exists, to notify the property owner of the associated costs.

This bill prohibits the filling or refilling of liquefied petroleum gas containers by anyone other than the owner or a person authorized in writing by the owner.

This bill also increases from 9 to 11 the membership of the state advisory board of fire control.

This bill also substitutes the New Hampshire Association of Fire Chiefs for the state advisory board of fire control in the nomination process for the state fire marshal.

SENATOR W. KING: Mr. President, this bill places the hazardous waste transport permit application fees into the hazardous waste cleanup fund. Additionally the committees amendment deals with the nomination of the state fire marshall, because of recent changes that have taken place in the Fire Marshalls Office in the Department of Safety. The folks involved in firefighting around the state agreed that there ought to be a different way of nominating the state fire marshall and the committee unanimously agreed.

Committee amendment adopted.

Ordered to third reading.

HB 505-FN, relative to the normal yield tax, the extension of the reporting deadline for the study committee on clearcutting forest resources, the report of cut, and creating a committee to study forest protection and management. Environment committee. Ought to Pass with Amendment. Senator McLane for the committee.

5871L

Amendment to HB 505-FN

Amend the bill by replacing section 1 with the following:

1 Certain Real Property Owners Exempted. Amend RSA 79:10-a, II to read as follows:

II. No owner required to furnish bond or other security in accordance with RSA 79:3-a shall commence to cut or continue to cut until he has posted the bond or other security; **however, no owner who owns land in the town where he intends to cut shall be required to post a bond or other security as a condition for filing an intent to cut or receiving a permit to cut, unless such owner intends to cut on public lands, or is a previous owner who retains timber rights to land and who registers his claim with the registry of deeds, as provided in RSA 79:1, II(2).**

Amend paragraph I of section 4 of the bill by replacing it with the following:

I. There is hereby established a committee which shall study and consider the need for legislation regarding the appropriate organization and funding of forest protection, forest management, and forest law enforcement responsibilities within the division of forests and lands of the department of resources and economic development.

Amend subparagraph II(g) of section 4 of the bill by replacing it with the following:

(g) One member of the Granite State Division of the Society of American Foresters, appointed by the division.

Amend paragraph II of section 4 of the bill by inserting after subparagraph (l) the following new subparagraphs:

(m) One member of the New Hampshire State Federation of Forest Fire Warden Associations, to be appointed by the federation.

(n) The director of the property appraisal division, department of revenue administration.

AMENDED ANALYSIS

This bill:

(a) Exempts any landowner who owns land in the town in which the landowner intends to cut growing wood or timber from posting a bond prior to engaging in the cutting, unless it shall occur on public lands, or unless the person is a previous owner who retains timber rights to land.

(b) Extends the reporting deadline for the study committee on clearcutting forest resources from November 1, 1991, to November 1, 1992.

(c) Requires filing of a report of cut within 30 days of the completion of valid cutting operations.

(d) Establishes a committee to study the appropriate organization and funding for forest protection, forest management, and forest law enforcement responsibilities within the division of forests and lands of the department of resources and economic development.

SENATOR MCLANE: This bill extends the deadline for the report of the clear-cutting committee from November 1991 to November 1992. It also makes a few changes in the forestry law. It is an agreed upon bill, and I believe that it is pretty obvious as to what it is.

Committee amendment adopted.

Ordered to third reading.

HB 1159-FN, an act relative to when municipal sewage disposal systems are considered public utilities. Environment committee. Ought to Pass with Amendment. Senator Hollingworth for the committee.

5925L

Amendment to HB 1159

Amend the title of the bill by replacing it with the following:

AN ACT

relative to when municipal sewage disposal systems are considered public utilities and directing the university of New Hampshire and the department of environmental services to study the use of municipal solid waste bottom ash as daily landfill cover for lined landfills.

Amend the bill by replacing all after section 1 with the following:

2 Municipal Solid Waste Incinerator Ash Study. The university of New Hampshire and the New Hampshire department of environmental services are hereby directed to study the feasibility of using only municipal solid waste incinerator bottom ash as a daily landfill cover for lined landfills. The study shall address the following:

I. Review of literature on the use and potential hazards of municipal solid waste incinerator bottom ash.

II. Application of new techniques.

III. Identify gaps in the knowledge, experience and practice of the use of bottom ash.

IV. Conduct experiments to test the applicability of the uses identified in the literature.

V. Design and implement a field demonstration at a lined New Hampshire landfill to study and compare the effectiveness and consequences of using bottom ash daily cover versus the current daily cover materials. The demonstration shall include the following:

(a) The impact of materials leaching from the landfill.

(b) The characteristics of the ash which could impact the groundwater.

(c) Fugitive emissions from the use of the ash material.

(d) Any other issues which may be identified in the literature and research.

3 Supervision of Study. The university of New Hampshire shall designate a neutral principal investigator unrelated to the waste management council, who shall be responsible for working with the university and the department of environmental services to submit a progress report to the president of the senate, the speaker of the house and the governor on or before November 1, 1992. The report shall include a summary of the results of the study and recommendations for the implementation of the field study.

4 Funding. Funding for all parts of the study will be from private sources.

5 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill exempts certain bulk municipal sewer service agreements from regulation by the public utilities commission. The commission has jurisdiction over sewer service and this bill would allow an exemption for municipal corporations supplying bulk sewer disposal services to another municipality.

The current law exempts municipal corporations which supply bulk water to another municipality, village district or water precinct pursuant to a wholesale rate or contract.

This bill also directs the University of New Hampshire and the department of environmental services to study the use of municipal solid waste incinerator bottom ash as daily landfill cover for lined landfills. The university would appoint a principal investigator to report on the progress of the study by November 1, 1992. Funding for the study would be from private sources.

SENATOR HOLLINGWORTH: The committee on Environment would like to move ought to pass with amendment on HB 1159. The bill exempts certain municipal sewerage system adjustments for regulation from the PUC. This is supported by the PUC and we would hope that you would agree that the municipalities are best able to work out their agreements with the other municipalities for contracts. The amendment on page eight also sets up a study committee to determine whether ash can be used in lime landfills for coverage for daily solid waste landfills. We would hope that you would support that. You can see the amendment in its totality on page eight. We ask ought to pass with amendment on this bill.

Committee amendment adopted.

Ordered to third reading.

HB 1278-FN-L, an act permitting towns to make bylaws for refuse disposal in specifically-designated bags and altering district court

procedure for levying fines against bylaws violators. Environment committee. Ought to Pass with Amendment. Senator Russman for the committee.

5856L

Amendment to HB 1278-FN-LOCAL

Amend the bill by replacing section 1 with the following:

1 Refuse Disposal in Certain Bags. Amend RSA 149-M:13, II to read as follows:

II.(a) A town may make bylaws governing the facility and fixing reasonable rates for its use. **Furthermore, a town may make bylaws requiring residents to dispose of their refuse in specifically-designated bags or containers, or in bags or containers that have attached to them a disposal sticker. Such bags, containers or disposal stickers shall be sold or made available by the town at a reasonable cost.**

(b) Notwithstanding RSA 31:39, III, towns are authorized to levy civil penalties up to \$3,000 for each act [of violating] **which violates the** bylaws enacted pursuant to this paragraph. [Notwithstanding any other provision of law, the district court shall have jurisdiction over any violation under this paragraph.] **For violations for which any penalty provided in the bylaws is \$500 or less, the official designated in the bylaws as the enforcement authority may issue a summons and notice of fine as provided in RSA 502-A:19-b, except that a copy of the fines for violations of the local bylaws shall be substituted for the uniform fine schedule. Defendants who are issued such summons and notice of fine may plead guilty or nolo contendere by mail by entering a plea as provided in RSA 502-A:19-b. If the plea is accepted by the court, the defendant shall not be required to appear unless directed by the court.**

SENATOR RUSSMAN: This allows the communities the ability to designate the type of color or what have you that they can use for identification purposes for the haulers and so on or the type of containers that the trash is collected in. So we would urge passage of the bill.

Committee amendment adopted.

Ordered to third reading.

Recess.

Out of recess.

HB 1314, establishing a committee to study the need for a public corporation to finance and operate environmental projects for the

benefit of the state and making changes in certain water laws. Environment committee. Ought to Pass with Amendment. Senator W. King for the committee.

5916L

Amendment to HB 1314

Amend the title of the bill by replacing it with the following:

AN ACT

establishing a committee to study the need for a public corporation to finance and operate environmental projects for the benefit of the state, making changes in certain water laws, and redistributing the duties of the division of water resources and the water resources council.

Amend the bill by replacing all after the enacting clause with the following:

1 Findings. The general court finds as follows:

I. The 1986 legislation which established the department of environmental services created statutory anomalies by retaining the public corporation status of the water resources council, while at the same time shifting the statutory powers of the public corporation to the division of water resources.

II. Since the department of environmental services was formed in 1987, there have been calls to rectify these statutory anomalies by the water resources council, the attorney general, the joint legislative committee to recodify the water laws of the state, and the legislative budget assistant.

III. There is a need to determine whether or not it is in the best interest of the state to retain a public corporation, similar to the former water resources board, which can finance and operate water or environmental projects by dedicating revenues to such purposes which shall be held and accounted for separately from other government revenues and expenditures.

2 Committee Established. A committee to study the advisability of retaining a public corporation to finance and operate water or environmental projects is established and shall include the following members:

I. Two members of the house resources, recreation and development committee, appointed by the speaker of the house.

II. Two members of the house executive departments and administration committee, appointed by the speaker of the house.

III. One member of the house economic development committee, appointed by the speaker of the house.

IV. One member of the house appropriations committee, appointed by the speaker of the house.

V. Two members of the senate environment committee, appointed by the president of the senate.

VI. One member of the senate executive departments committee, appointed by the president of the senate.

VII. One member of the senate finance committee, appointed by the president of the senate.

VIII. One member of the senate economic development committee, appointed by the president of the senate.

3 Committee Duties; Report.

I. The committee shall consider the report entitled "Legal Conflicts Concerning the N.H. Water Resources Council: A Report Required by Chapter 184, Laws of 1991," dated September 30, 1991, and the letter from the water resources council to the house resources, recreation and development committee dated January 21, 1992, as well as any other pertinent material, as working documents to assist in its study.

II. The committee shall submit a report, including any proposed legislation that the committee deems necessary to implement its recommendations, to the governor, the speaker of the house and the senate president not later than November 30, 1992. The report shall include findings and recommendations concerning the following:

(a) The need for the continued existence of a public corporation with the authority to finance and operate water or environmental projects by exercising the following powers:

(1) Issuing revenue bonds, which will not be obligations of the state.

(2) Using earnings from such projects to fund maintenance and operation costs of the projects.

(3) Exercising the power of eminent domain as necessary.

(b) The organizational structure which is most appropriate for such a public corporation, including its placement within the executive branch.

(c) The appropriateness of the distribution of responsibility for state-owned dams reflected in RSA 482:48.

III. The committee may request assistance from any state agency including, but not limited to, the department of justice, the department of environmental services, the legislative budget assistant, the water resources council, and the treasurer's office.

4 Meetings; Mileage.

I. The first-named house member of the committee shall call the first meeting not later than 30 days after the effective date of this section. The committee shall elect its own chairman and vice chair-

man at the first meeting. Thereafter the committee shall meet as often as necessary to complete its report.

II. Members of the committee shall be entitled to legislative mileage while engaged in committee business.

5 New Paragraphs; Council, Corporation Defined. Amend RSA 481:2 by inserting after paragraph I the following new paragraphs:

I-a. "Council" means the 5 members of the water resources council established by RSA 21-O:5 and RSA 481:4.

I-b. "Corporate" or "Corporation" means the water resources council acting as a public corporation as provided in RSA 21-O:4 and 1986, 202:2.

6 Change from "Division" to "Council". Amend the following RSA provisions by replacing "division" with "council": RSA 481:2, III, V; 481:6-b; 481:6-c; 481:8, I-II; 481:9; 481:10; 481:11; 481:13; 481:14; 481:14-a; 481:15, 481:16; 481:17; 481:19.

7 Director of Water Resources Changed to Council. Amend the section heading and introductory paragraph of RSA 481:3 to read as follows:

481:3 Authority of [Director] **Council**. The [director of water resources] **council** may engage in projects, financed as set forth in this chapter. The [director] **council** is authorized:

8 Division, Director Changed to Council. Amend RSA 481:3, II-IV to read as follows:

II. To acquire, hold and dispose of personal property for the [division's] **council's** purposes;

III. To acquire in the name of the state by purchase, condemnation, lease, or otherwise, real property and rights and easements relating to the real property deemed by it necessary or desirable for its corporate purposes. The [director] **council** may also use the property;

IV. To sell, lease and dispose of real property and rights and easements relating to the real property not needed in the judgment of the [director] **council** for the purposes of this chapter;

9 Reference Changed. Amend RSA 481:3, VIII to read as follows:

VIII. To exercise any of [his] **its** powers:

10 Director Changed to Council. Amend RSA 481:6, I and the introductory paragraph of 481:6, II to read as follows:

I. The [director of water resources] **council** shall have the power to make contracts with the United States, any state in the United States, a foreign country, or any public corporation or body in another state or country.

II. The [director of water resources] **council** may:

11 Change from Division to Council. Amend RSA 481:6-a to read as follows:

481:6-a Bylaws; Records; Personnel. The [division] **council** shall

adopt and may from time to time amend bylaws governing its procedures. The [division] **council** shall adopt a corporate seal, and shall cause records of its procedures to be kept by a secretary to be appointed by the division. The division shall appoint agents, engineers, and employees as it deems proper and fix their compensation, subject to the rules adopted by the state director of personnel.

12 Change Division to Council. Amend RSA 481:7 to read as follows:

481:7 Project Reports; Hearing and Order. The [division of water resources] **council**, before commencing any project, shall submit to the governor and council a report including a detailed description and plan of the project, a detailed estimate of the total cost thereof and of the revenues to be derived therefrom. The governor and council, upon receiving such report, shall determine whether the proposed project will be of public use and benefit and within the authority conferred upon said [division] **council**. They shall cause a hearing to be held thereon and, if it shall appear that the project would be of public use and benefit and within the authority conferred upon said [division] **council**, they may, by written order, direct said [division] **council** to proceed with such project. The governor and council shall order notice of the hearing upon any such report to be given in such manner as they shall deem fit.

13 New Section; Corporate Assets Water Resources Council. Amend RSA 481 by inserting after section 18 the following new section:

481:18-a Assets to Pass to State. In the event that the corporation established pursuant to RSA 481:4 shall be dissolved, all of the assets remaining after all of its obligations and liabilities have been satisfied or discharged shall pass to and become the property of the state.

14 Division Changed to Council. Amend RSA 481:32, II to read as follows:

II. Notwithstanding any other provision of law, the [division of water resources] **council** may transfer to this fund such gifts and grants as it may from time to time receive, together with any surplus revenue held by the [division] **council** and derived from its management of water resources properties.

15 New Section; Disposition of Corporate Assets. Amend RSA 481 by inserting after section 33 the following new section:

481:34 Assets to Pass to State. In the event that the corporation established pursuant to RSA 481:4 shall be dissolved, all of its assets remaining after all of its obligations and liabilities have been satisfied or discharged shall pass to and become the property of the state.

16 Definition of Minor Project; Costs Increased. Amend RSA 482:54, IV to read as follows:

IV. "Minor project" shall mean maintenance work performed on a periodic basis with costs not exceeding [\$20,000] **\$50,000**.

17 Time Limit Removed. Amend RSA 485:3, V to read as follows:

V. The division may adopt rules specifying the criteria under which filtration, including coagulation and sedimentation, as appropriate, is required as a treatment technique for public water systems supplied by surface water sources. In developing such rules the division shall consider the quality of source waters, protection afforded by watershed management, treatment practices such as disinfection and length of water storage and other factors relevant to protection of health. The division may require any public water supply system to assist in determining the necessity of filtration in that system. The division shall provide an opportunity for notice and public hearing prior to implementation of any filtration requirement. Following such hearing, the division shall prescribe, by rule adopted pursuant to RSA 541-A, a compliance schedule for such filtration requirement. [A public water supply system shall comply with a filtration schedule prescribed by the division not later than 18 months after the division has made a determination of necessity under this paragraph.]

18 Effective Date.

I. Sections 1-4, and 15-17 of this bill shall take effect upon its passage.

II. The remainder of this act shall take effect July 1, 1993.

AMENDED ANALYSIS

This bill establishes a committee to study the need for a public corporation to finance and operate environmental projects for the benefit of the state.

This bill makes technical changes in certain water laws.

This bill redistributes the duties of the division of water resources and the water resources council.

Recess.

Out of recess.

SENATOR W. KING: HB 1314 originally came to the Senate as a study committee to look at the need for a public corporation to finance and operate environmental projects for the benefit of the state and making changes in water laws. The committee heard testimony in favor of the study committee. The study committee resulted from a report that was published by the Department of Environmental Services relative to certain conflicts that exist in the laws regard-

ing water, particularly as they relate to the Water Resources Board and the Department of Environmental Services. Much of this came from problems that arose as a result from reorganization of the Department of Environmental Services. The Senate President, Dupont, offered an amendment which corrected some of the technical problems that were brought up in the report from DES and the committee's recommendation is that the technical changes be made, but made effective one year from now so that the study committee has the time to look at the other issues dealing with DES and the Wetlands Board and the Department of Water Resources and can make recommendations that are not influenced by the changes that are suggested by Senator Dupont. So you have two pieces here, one effective immediately, that is the study committee and the second being effective one year from now. Now, I know that Senator Disnard will be offering an amendment after we adopt the committee amendment and I have a feeling that Senator McLane will have a discussion with him about that. You have the committee's recommendation of ought to pass with amendment before you.

Committee amendment adopted.

SENATOR DISNARD: The amendment is that the Dupont section has passed the committee and the effective date of both bills will take effect upon passage. I would like to read to you a statement by the Assistant Commissioner of the House when this bill was brought before the House. Imagine in that the Commissioner of Environmental Services and I read from the minutes of the House: "There is a fundamental disagreement between DES and the Council", listen to this: "I wrote the reorganization bill under orders to make it look like a simple reorganization, but really strip the council of its powers." Imagine a statement like that by the Assistant Commissioner? If we do not make both sections of this bill pass immediately, what we are doing is taking authority away from the Council corporation, this is a citizen committee appointed by the Governor and Council. Where we should say that the authority of the Council Corporation it now gives all of its authority to the director. When it says Council Corporation should hold the property, it now says the director. We have people who have contracts that are very concerned, the hydro developers, they generate a quarter of a million dollars in income. All funds that are deposited in the dam maintenance fund will take care of all the state owned dams. Where it used to say the council, it now uses the word 'director of the division'. I could go on and on, but I am especially concerned that the language is so confused, that prior to this, the council and corporation would be subject to be sued. Legal people think that if we pass this as the committee recommends, that we would have problems with suits

that the director of the division would be subject to. All that I am saying is, let us set the policy, let us go along with the original Dupont amendment, let us have the entire bill take effect. I have nothing against a study committee. Perhaps a study committee will come out and have some ideas that will be very helpful in suggestions. I just think that we ought to find out what is going on. Thank you.

Senator Disnard offered a floor amendment.

5968L

Floor Amendment to HB 1314

Amend the bill by replacing section 18 with the following:
18 Effective Date. This act shall take effect upon its passage.

SENATOR MCLANE: Typical that we take the vote before we discuss it a little bit. It seems to me that that is exactly what we are doing here. We are saying let's study the issue, but let us vote on the issue and then study it. The Water Resources Board is in the business of building dams, there are no more dams to be built in the state of New Hampshire. It is a political entity that has outlived its usefulness. Del Downing who is the Chairman of the Water Resources Board is a very strong political character and I think that he has proved it here today. But let me tell you my impression of even their report. There was a list of the dams in the state of New Hampshire and there were about 230 of them. Half of them are now under the control of the Department of Environmental Services. The other half are under the control of the Water Resources Council because they're the ones that make the money. Why are some in one place and some in another? But I think the thing that symbolized to me what the problem is, is their projections about revenue over the next 10 years in which they project the building of the Wyoming dam on the Connecticut river. We have been talking about the Wyoming dam for three months in this legislature and I don't believe that there is a person here that thinks that we are going to build the Wyoming dam or rebuild it. But that is the focus of the Water Resources Board. There is a problem there and I think that we ought to look at the problem and come to a legislative decision and to give all of the power back to the Water Resources Board and then study it, I was going to say back-ass-ward, but I can't quite remember how you say it.

Recess.

Out of recess.

Division vote requested.

Yeas 15

Nays 7

Floor amendment adopted.

Ordered to third reading.

HB 1372-FN, an act placing restrictions on the sale and disposal of manganese, zinc carbon, oxide and nickel-cadmium batteries. Environment committee. Ought to Pass with Amendment. Senator Hollingworth for the committee.

5854L

Amendment to HB 1372-FN

Amend RSA 149-M:22, V as inserted by section 1 of the bill by replacing it with the following:

V. Beginning July 1, 1993, no person shall sell or offer for sale in this state any consumer product manufactured after July 1, 1993, which is powered by a small, sealed, nickel-cadmium or small, sealed, lead acid battery unless:

(a) The battery can be easily removed by the consumer or is contained in a battery pack that is separate from the product and can be easily removed; and

(b) Such product, the package containing such product, or the battery itself is clearly labeled in a manner which is visible and understandable to the consumer prior to purchase indicating that the battery must be recycled or disposed of properly.

(c) The battery must be clearly identifiable as to the type of electrode used in the battery.

(d) The battery or battery pack itself is labeled with the name of the manufacturer.

SENATOR HOLLINGWORTH: The committee on Environment moves ought to pass with amendment on HB 1372, the amendment being on page 12. The bill reduces into the waste stream, batteries, which they believe are toxic. This has the agreement and the support of the industry as well. This bill came up last session and was not passed, but it has come back to us this session and we are pleased to support it. It is more stringent because it requires a reduction of the level of mercury in 1993 and prohibits any mercury content after 1996. We ask for your support on this piece of legislation.

Committee amendment adopted.

Ordered to third reading.

HB 1382, an act requiring all sellers of property to fully disclose information relative to private water supplies and septic and sewage

disposal systems. Environment committee. Ought to Pass with Amendment. Senator W. King for the committee.

5945L

Amendment to HB 1382

Amend the title of the bill by replacing it with the following:

AN ACT

requiring all sellers of property to fully disclose information relative to private water supplies and septic and sewage disposal systems and relative to drainage pools.

Amend RSA 485-A:39, I as inserted by section 2 of the bill by replacing it with the following:

I. Prior to [offering for sale] **the execution of a purchase and sale agreement** for any developed waterfront property using a [sewage] **septic** disposal system, the owner of the property shall, at his expense, engage a [licensed sewage] **permitted subsurface sewer or waste** disposal system designer to perform a site assessment study to determine if the site meets the current standards for [sewage] **septic** disposal systems established by the division. The site assessment study [may] **shall** [be completed off-site] **include an on-site inspection.**

Amend the bill by replacing section 3 with the following:

3 Exception for Drainage Pools Allowed. Amend RSA 482-A:3, IV to read as follows

IV.(a) The replacement or repair of existing structures in or adjacent to any waters of the state which does not involve excavation, removal, filling, or dredging in any waters or of any bank, flat, marsh, or swamp is exempt from the provisions of this chapter.

(b) Any manmade containment area not greater than 1,500 feet constructed to collect spring run-off may be cleaned out as often as necessary to allow water to dissipate by natural means. These areas may be cleaned with the use of a vacuum, dredge or backhoe, as long as no enlargements are made to the existing area and if no degradation of water quality occurs. This exemption shall not apply to any area greater than 1,500 square feet or to roadside low areas.

4 Effective Date. This act shall take effect January 1, 1993.

AMENDED ANALYSIS

This bill requires the seller of real property which includes a building to disclose information relative to the private water supply and the sewage disposal system.

The bill requires an on-site assessment to be included in any purchase and sale agreement for developed waterfront property using a septic disposal system.

This bill also allows certain man-made containment areas to be cleaned out to allow drainage.

SENATOR W. KING: This bill requires the seller of real property which includes a building, to disclose information about private water supplies and the sewerage disposal system of that property. It also requires an on-site assessment to be included in the purchase and sales agreement for any developed waterfront property using a septic disposal system. The problem was with the old law, there is a law that already exists relative to septic systems on waterfront property, but it does not require an on-site assessment. It could be done from an engineers office anywhere in the country. So what this bill does is require them to make at least an on-site inspection of that property before they make a determination of it.

SENATOR NELSON: Senator King, not only does it do that, it also, prior to offering for sale, has been changed from the execution of a purchase. Why would you move it back to the purchase instead of before going up for sale?

SENATOR W. KING: Senator Nelson, very simply because it is a relatively expensive process and with the real estate market being what it is, it was felt that that cost need not be incurred before you even offer the property for sale, but rather before the transfer took place.

SENATOR NELSON: Are we creating a brand new career when we take away licensed sewerage, I don't know what a licensed sewerage is anyways, but you changed licensed sewerage to permitted subsurface water waste disposal system designer. Where do you get one of those in the state of New Hampshire, I was curious? Where is a person going to get these kind of people?

SENATOR W. KING: In the phone book.

SENATOR NELSON: There are a whole bunch of these people around?

SENATOR W. KING: Right. It is my understanding that permitted subsurface sewer or water disposal system designer makes or broadens the number of individuals who are able to do this from the much more restrictive licensed sewer disposal designer so that it will make it more competitive and hopefully, lower the cost to the consumers.

SENATOR NELSON: I see everywhere else that we are going to license, why are we going . . . not considering a cost, everyone else

wants to be licensed, here is a group that we want to not license and it has to do with the main issue of the world, called water, we are now saying that you don't have to be licensed, you are permitted.

SENATOR W. KING: No. Senator Nelson, all that we are saying is that there are a number of individuals who are qualified to make this kind of site assessment; and if you allow them to do that, you will probably bring down the market cost by providing that.

Committee amendment adopted.

SENATOR BASS: I have a floor amendment, Mr. President, for HB 1382. Mr. President, this amendment exempts subdivision in condominium homeowners associations, from the definition of subdivider, which is a developer, and declarant, in the statutes from guarding large subdivisions and condominiums. The statutes require developers of subdivisions and condominiums now, as well as successors to these people to register with the Attorney General. The law is unclear as to whether a Homeowners Association which acquires large numbers of units, such as those acquired by foreclosure, whether or not they should be successor dividers or successors declarants. Successors subdividers and declarants have to go through all sorts of hoops with the Attorney General's Office and the law is unclear at this point as to when someone becomes a successor divider or declarant, homeowners associations are clearly never developers within the intention of the statute regulating large subdivisions and condominiums. They often have no choice but to acquire lots or units when owners fail to pay dues, they shouldn't then be further penalized by having to go through the registration intended for developers. I urge your adoption of the floor amendment.

Senator Bass offered a floor amendment.

5978L

Floor Amendment to HB 1382

Amend the title of the bill by replacing it with the following:

AN ACT

requiring all sellers of property to fully disclose information
relative to private water supplies and septic and sewage
disposal systems, relative to drainage pools, and
exempting homeowners associations from
certain registration requirements.

Amend the bill by replacing section 4 with the following:

4 Exemption; Definition of Subdivider. Amend RSA 356-A:1, V to read as follows:

V. "Subdivider" means a person who is an owner of subdivided land or one who offers it for disposition. Any successor of the person referred to in this paragraph who comes to stand in the same relation to the subdivided lands as his predecessor did shall also come within this definition; **provided, however, the term "subdivider" shall not include any homeowners association which is not controlled by a subdivider;**

5 Exemption; Definition of Declarant. Amend RSA 356-B:3, XIII to read as follows:

XIII. "Declarant" means all persons who execute or propose to execute the declaration or on whose behalf the declaration is executed or proposed to be executed. From the time of the recordation of any amendment to the declaration expanding an expandable condominium, all persons who execute that amendment or on whose behalf that amendment is executed shall also come within this definition. Any successors of the persons referred to in this paragraph who come to stand in the same relation to the condominium as their predecessors did shall also come within this definition; **provided, however, this definition shall not include any homeowners association which is not controlled by a declarant.**

6 Effective Date.

I. Sections 1-3 of this act shall take effect January 1, 1993.

II. Sections 4-5 of this act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill requires the seller of real property which includes a building to disclose information relative to the private water supply and the sewage disposal system.

The bill requires an on-site assessment to be included in any purchase and sale agreement for developed waterfront property using a septic disposal system.

This bill allows certain man-made containment areas to be cleaned out to allow drainage.

The bill also exempts homeowners associations from registration requirements for owners of subdivided lands and condominiums.

SENATOR HEATH: Yes, I wanted to ask Charlie what he just said?

SENATOR BASS: You really want me to repeat what I just said? I will be glad to, Senator Heath.

SENATOR HEATH: No, I just want you to explain what you just said. Just in simple terms.

SENATOR BASS: What it means is that homeowners associations who want to buy back multiple lots in foreclosure, don't have to jump through hoops because they are not developers. Therefore, the homeowners associations themselves, are not developers, or associations who represent the existing owners that are trying to buy back lots and foreclosure to protect their investments; and as a result, they don't want to have to be penalized by having to go through the whole registration process with the Attorney General.

SENATOR HEATH: Does this mean that there would be one standard for the developer and another standard for the homeowners?

SENATOR BASS: In a foreclosure sale, that is correct.

SENATOR HEATH: Only in a foreclosure sale?

SENATOR BASS: That is correct.

LAI D ON THE TABLE

Senator W. King moved to have HB 1382 an act requiring all sellers of property to fully disclose information relative to private water supplies and septic and sewage disposal systems laid on the table.

Adopted.

HB 1382 is laid on the table.

HB 1495-FN, an act establishing a committee to study the management of New Hampshire tidal waters and related issues. Environment committee. Ought to Pass with Amendment. Senator Hollingworth for the committee.

5933L

Amendment to HB 1495-FN

Amend the title of the bill by replacing it with the following:

AN ACT

establishing a committee to study the management of
New Hampshire tidal waters and related issues.

Amend the bill by replacing all after the enacting clause with the following:

1 Committee Established; Membership. There is hereby established a committee to conduct a comprehensive study of all aspects of the management of New Hampshire tidal waters, commercial fishing and marine industry, including, but not limited to, fuel sold to vessels at state piers, fuel costs, pier usage, parking, harbor masters, moorings, and fees and concessions at state piers. The committee membership shall be as follows:

I. Two members of the senate including the senators from districts 23 and 24, appointed by the senate president.

II. Two members of the house of representatives, including representatives from the areas of Hampton, Rye, Portsmouth or Seabrook, appointed by the speaker of the house.

III. The director of the division of parks and recreation, or designee.

IV. One member from the Yankee Fishermen's Cooperative, appointed by such cooperative.

V. One member from the Tricoastal Seafood Cooperative, appointed by such cooperative.

VI. One harbor master appointed by the chief harbor master.

VII. One lobster fisherman, appointed by the New Hampshire Commercial Fishermens Association.

VIII. One member from the Interstate Passenger Boat Association, appointed by such association.

IX. One member from the New Hampshire Commercial Fishermens Association, appointed by such association.

X. One public member, appointed by the governor.

XI. The coastal commissioner of fish and game commission, or designee.

XII. The chairman of the New Hampshire state port authority board, or designee.

2 Meetings; Chair; Public Hearings. The first meeting of the committee shall be called by the first senator appointed to the committee and shall be held no later than July 15, 1992. The chair of the committee shall be chosen by the members at the first meeting. The committee may hold public hearings in the Seacoast area as it deems necessary. All meetings of the committee shall be held in the seacoast area, the specific area to be determined by vote of the committee.

3 Report. The committee shall report its findings and recommendations, including any proposed legislation, to the president of the senate, the speaker of the house, and the governor on or before November 1, 1992.

4 Compensation. The committee members shall serve without compensation except that legislative members shall receive mileage at the legislative rate.

5 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill establishes a committee to conduct a comprehensive study on all aspects of the commercial fishing industry and the management of New Hampshire tidal waters.

SENATOR HOLLINGWORTH: The committee on Environment would like to ask ought to pass with amendment on HB 1495 with the amendment being on page 16. This bill sets up merely a study committee in which all aspects of the Harbor Management, of our tidal waters will be studied, including commerical fishing, marine industry, fuels sold to vessels at state piers, fuel costs, pier usage, parking harbor masters, moorings and fees, and concessions at state parks. We heard a lot of testimony that there has been an increase in the usage of our small harbors; and this bill as amended will address, not just the management, but all aspects of the harbors.

Committee amendment adopted.

Ordered to third reading.

HB 591, an act reapportioning the state house of representatives districts. Internal Affairs committee. Ought to Pass. Senator Roberge for the committee.

SENATOR ROBERGE: Mr. President and members of the Senate, HB 591 was an agreed on bill by the House. Representatives Carol Holden and Garret Cowenhoven came in and testified to this bill. I urge its passage.

Adopted.

Ordered to third reading.

HB 1005, an act relative to the reapportionment of house districts within cities and the election of delegates to state party conventions. Internal Affairs committee. Ought to Pass. Senator Roberge for the committee.

SENATOR ROBERGE: Mr. President and members of the Senate, HB 1005 has to do with the redistricting of the cities. Again, I have the sign-off of Representatives Holden and Cowenhoven and I have a letter from Representative Natalie Flanagan stating that they are absolutely in favor and they have a consensus in the House for passage of this bill. I urge passage, thank you.

5898L

Floor Amendment to HB 1005

Amend the bill by replacing section 3 with the following:

3 Reapportioning State Representative Districts in Concord. RSA 662:5, VII District No. 14 is repealed and reenacted to read as follows:

District No. 14 Concord Ward 1	1
District No. 15 Concord Ward 2	1
District No. 16 Concord Ward 3	1
District No. 17 Concord Ward 4	1

District No. 18 Concord Ward 5	1
District No. 19 Concord Ward 6	1
District No. 20 Concord Ward 7	1
District No. 21 Concord Ward 8	1
District No. 22 Concord Ward 9	1
District No. 23 Concord Ward 10	1
District No. 24 Concord Wards 1-10	3

Amend RSA 662:5, IX District Nos. 15-20, as inserted by section 5 of the bill by replacing them with the following:

District No. 15 Rochester Ward 1	2
District No. 16 Rochester Ward 2	2
District No. 17 Rochester Ward 3	2
District No. 18 Rochester Ward 4	2
District No. 19 Rochester Ward 5	2

LAID ON THE TABLE

Senator Fraser moved to have HB 1005 laid on the table

Adopted.

HB 1005, an act relative to the reapportionment of house districts within cities and the election of delegates to state part conventions.

HB 1005 is laid on the table.

RECONSIDERATION

Senator Russman moved reconsideration whereby HB 591, an act reapportioning the state house of representatives districts was ordered to third reading.

Adopted.

LAID ON THE TABLE

Senator Fraser moved to have HB 591 laid on the table.

Adopted.

HB 591, an act reapportioning the state house of representatives districts

HB 591 is laid on the table.

HB 758, an act relative to the right to privacy act. Judiciary committee. Ought to Pass with Amendment. Senator Colantuono for the committee.

5959L

Amendment to HB 758-FN

Amend the bill by replacing all after the enacting clause with the following:

1 Credit Reporting Agencies Deleted. Amend RSA 359-C:2 to read as follows:

359-C:2 Purpose. The general court finds and declares as follows:

I. The confidential relationships between financial institutions[,] **and** creditors [and credit reporting agencies] and their respective customers are built on trust and must be preserved and protected.

II. The purpose of this chapter is to protect the confidential relationship between financial institutions[,] **and** creditors [and credit reporting agencies] and their respective customers.

2 Definitions Deleted. RSA 359-C:3 is repealed and reenacted to read as follows:

359-C:3 Definitions. In this chapter:

I. "Credit" means any permission granted to any person to defer payment of any debt, or to incur any debt and defer payment of such debt.

II. "Creditor" means any person who regularly extends, or arranges for the extension of, credit for which the payment of a finance charge is required, whether such credit is extended by means of any card, coupon book, or other device which may be used for the purpose of obtaining any money, property, labor, service, or other thing of value on credit, or by any other means.

III. "Credit record" means any information held by any creditor concerning:

- (1) Any person to whom such creditor extends any credit; or
- (2) Any person seeking to obtain any credit from such creditor.

IV. "Customer" means any person who has transacted business with or has used the services of a financial institution or a creditor, or for whom a financial institution has acted as a fiduciary, in relation to an account maintained in the person's name.

V. "Financial institution" means:

(a) Any bank, trust company, savings and loan association, building and loan association, homestead association, or credit union which is organized under the laws of any state or of the United States; and

(b) Any other person organized under the banking laws of any state.

VI. "Financial record" means any information held by any financial institution concerning:

(a) Any debit or credit to any deposit or share account with such financial institution; or

(b) Any person who maintains, or has maintained, any such account or who transacts, or has transacted, any other business with such financial institution.

VII. "Investigation" includes, but is not limited to, any inquiry by a peace officer, sheriff, or county attorney or any inquiry made for the purpose of determining whether there has been a violation of any law enforceable by imprisonment, fine, or monetary liability.

VIII. "Local agency" includes a county; city; town; school district; municipal corporation; district; political subdivision or any board, commission or agency thereof; or other local public agency.

IX.(a) "Person" means an individual, partnership, corporation, association, trust or other legal entity organized under the laws of this state.

(b) In the case of a partnership, corporation, association, trust or other legal entity, the term "person" shall also mean:

(1) Any partner in a partnership, any director or officer of a corporation, any trustee of a trust, or any member of an association; or

(2) Any agent who is authorized to maintain an account or transact business with a financial institution on behalf of a partnership, corporation, association, trust or other legal entity organized under the laws of this state.

X. "State agency" means every state office, officer, department, division, bureau, board, and commission or other state agency.

XI. "Supervisory agency" means:

(a) Any authority of any state or of any political subdivision of any state which is required by law to examine or audit any financial record of any financial institution; and

(b) Any authority of any state or of any political subdivision of any state which the United States Secretary of the Treasury by regulation determines to be exercising supervisory functions over any financial institution which are substantially similar to those supervisory functions exercised by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, the Office of Thrift Supervision, the National Credit Union Administration, the Federal Reserve Board, the Comptroller of the Currency or the Federal Communications Commission.

3 Reference to Creditor. Amend RSA 359-C:4, I to read as follows:

I. Except as provided in RSA 359-C:11 [and RSA 7:6-b], no officer, employee, or agent of a state or local agency or department thereof, in connection with a civil or criminal investigation of a customer, whether or not such investigation is being conducted pursuant to formal judicial or administrative proceedings, may request or receive copies of, or the information contained in, the financial[,] or credit records of any customer from a financial institution or [credit reporting agency] **creditor** unless the financial[, toll] or credit

records are described with particularity and are consistent with the scope and requirements of the investigation giving rise to such request[.] **and:**

(a) **Such customer has authorized such disclosure under RSA 359-C:7;**

(b) **Such financial records are disclosed in response to an administrative subpoena meeting the requirements set forth in RSA 359-C:8;**

(c) **Such financial records are disclosed in response to a search warrant meeting the requirements set forth in RSA 359-C:9; or**

(d) **Such financial records are disclosed in response to a judicial subpoena or subpoena duces tecum pursuant to RSA 359-C:10.**

4 Reference to Creditor. Amend RSA 359-C:4, III and IV to read as follows:

III. Nothing in this section or in RSA 359-C:7, 359-C:8, 359-C:9 or 359-C:10 shall require a financial institution or [credit reporting agency] **creditor** to inquire or determine that those seeking disclosure have duly complied with the requirements set forth therein; provided only that the customer authorization[, administration], administrative subpoena or summons, search warrant or judicial subpoena or order served on or delivered to a financial institution or [credit reporting agency] **creditor** pursuant to such sections shows compliance on its face. The burden of proof to show compliance with this chapter shall be on the agency or body issuing such order.

IV. The financial institution or [credit reporting agency] **creditor** shall maintain for a period of 5 years a record of all examinations or disclosures of the financial or credit records of a customer including the identity and purpose of the person examining the financial[, toll] or credit records, the state or local agency or department thereof which he represents and, where applicable, a copy of the customer authorization, subpoena, summons or search warrant providing for such examination or disclosure or a copy of the certified crime report received pursuant to RSA 359-C:11, II. Any record maintained pursuant to this paragraph shall be available at the office or branch where the customer's account is located during normal business hours for review by the customer upon request. A copy of such record shall be furnished to the customer upon request and payment of the reasonable cost thereof.

5 Reference to Creditor. Amend RSA 359-C:5 to read as follows:
359-C:5 Disclosure of Records.

I. Except in accordance with requirements of RSA 359-C:7, 359-C:8, 359-C:9 or 359-C:10, no financial institution or [credit reporting agency] **creditor**, nor any director, officer, employee, or agent

thereof may provide or authorize another to provide to an officer, employee or agent of a state or local agency or department thereof any financial, or credit records, copies thereof, or the information contained therein if the director, officer, employee or agent of the financial institution or [credit reporting agency] **creditor** knows or has reasonable cause to believe that such financial or credit records or information are being requested in connection with a civil or criminal investigation of the customer, whether or not such investigation is being conducted pursuant to formal judicial or administrative proceedings.

II. This section is not intended to prohibit disclosure of the financial[, toll] or credit records of a customer or the information contained therein incidental to a transaction in the normal course of business [in] **of** such financial institution or [credit reporting agency] **creditor** if the director, officer, employee or agent thereof making or authorizing the disclosure has no reasonable cause to believe that the financial or credit records or the information contained in such records so disclosed will be used by a state or local agency or department thereof in connection with an investigation of the customer, whether or not such investigation is being conducted pursuant to formal judicial or administrative proceedings.

II-a. This section is not intended to prevent a financial institution from disclosing to the county attorney or the attorney general the financial or credit records of a customer or the information contained therein when the director, officer, employee or agent of the financial institution has reasonable cause to believe the customer is utilizing the services of the institution to defraud the institution or any other person.

III. A financial institution or [credit reporting agency] **creditor** which refuses to disclose the financial or credit records of a customer, copies thereof or the information contained therein in reliance in good faith upon the prohibitions of RSA 359-C:5, I, shall not be liable to its customer, to a state or local agency or to any other person for any loss or damage caused in whole or in part by such refusal.

6 Reference to Creditor. Amend RSA 359-C:7, I and II to read as follows:

I. A customer may authorize disclosure under RSA 359-C:4, I(a), if those seeking disclosure furnish to the financial institution or [credit reporting agency] **creditor** a signed and dated statement by which the customer:

(a) Authorizes such disclosure for a period to be set forth in the authorization statement;

(b) Specifies the name of the agency or department to which disclosure is authorized and, if applicable, the statutory purpose for which the information is to be obtained; and

(c) Identifies the financial or credit records which are authorized to be disclosed.

II. No such authorization shall be required as a condition of doing business with such financial institution or [credit reporting agency] **creditor**.

7 Reference to Creditor. Amend the introductory paragraph of RSA 359-C:8, I to read as follows:

I. An officer, employee or agent of a state or local agency or department thereof may obtain financial or credit records under RSA 359-C:4, I(b), pursuant to an administrative subpoena or summons otherwise authorized by law and served upon the financial institution or [credit reporting agency] **creditor** only if:

8 Reference to Creditor. Amend RSA 359-C:8, II to read as follows:

II. Nothing in this chapter shall preclude a financial institution or [credit reporting agency] **creditor** from notifying a customer of the receipt of an administrative summons or subpoena.

9 Reference to Creditor. Amend RSA 359-C:9 to read as follows:

359-C:9 Obtaining Records by Search Warrant. An officer, employee or agent of a state or local agency or department thereof may obtain financial or credit records under RSA 359-C:4, I(c), only if he obtains a search warrant **pursuant to RSA 595-A**. Examination of financial or credit records may occur as soon as the warrant is served on the financial institution or [credit reporting agency] **creditor**.

10 Reference to Creditor. Amend RSA 359-C:10 to read as follows:

359-C:10 Obtaining Records by Subpoena.

I. An officer, employee or agent of a state or local agency or department thereof may obtain financial or credit records under RSA 359-C:4, I(d), pursuant to a judicial subpoena or subpoena duces tecum only if:

(a) The subpoena or subpoena duces tecum is issued and served upon the financial institution or [credit reporting agency] **creditor** and **served upon or mailed to** the customer; and

(b) Ten days **after the service date [pass] passes, or 14 days after the mailing date passes** without notice to the financial institution or [credit reporting agency] **creditor** that the customer has moved to quash the subpoena. If testimony is to be taken, or financial or credit records produced, before a court, the [10 day] **notice [period] periods** provided for in this paragraph may be shortened by the court issuing the subpoena or subpoena duces tecum upon a

showing of reasonable cause. The court shall direct that all reasonable measures be taken to notify the customer within the time so shortened.

II. Without limiting in any way the authority of the grand jury, a grand jury is authorized to and may, upon a resolution adopted by a majority of its members, obtain financial[,] or credit [or other] records pursuant to a subpoena duces tecum bearing the authenticating signature of the clerk of court. **Notwithstanding RSA 359-C:4, IV, the grand jury may appoint, by resolution, any person as its agent for purposes of receiving the information set forth in the subpoena. The grand jury may further adopt a resolution prohibiting any owner, officer, director, partner, employee, agent or attorney from a financial institution from notifying, directly and indirectly, any person named in a subpoena about the existence or contents of such subpoena or that information has been furnished to a grand jury in response to such subpoena.**

III. Upon issuing such subpoena or subpoena duces tecum, the judge shall order the grand jury to notify the customer in writing within [30] 180 days of such issuance; provided, however, that the judge may shorten the [30] 180 day period or, upon a showing of good cause, may extend such period beyond [30] 180 days[, but not beyond the date on which such grand jury is to be discharged]. The notice shall specify the financial or credit records which were examined and the reason for such examination.

11 References to Creditor and Financial Institution. Amend RSA 359-C:11, II and III to read as follows:

II. When any police or sheriff's department or county attorney in this state certifies to a [bank] **financial institution** in writing that a crime report has been filed which involves the alleged fraudulent use of drafts, checks or other orders drawn upon any [bank] **financial institution** in this state, such police or sheriff's department or county attorney may request a [bank] **financial institution** to furnish, and a [bank] **financial institution** shall supply, a statement setting forth the following information with respect to a customer account specified by the police or sheriff's department or county attorney for a period of 30 days prior to and up to 30 days following the date of occurrence of the alleged illegal act involving the account:

- (a) The number of items dishonored;
- (b) The number of items paid which created overdrafts;
- (c) The dollar volume of such dishonored items and items paid which created overdrafts and a statement explaining any credit arrangement between the [bank] **financial institution** and customer to pay overdrafts;
- (d) The dates and amounts of deposits and debits and the account balance on such dates;

(e) A copy of the signature appearing on a customer's signature card;

(f) Date account opened and, if applicable, date account closed.

III. Subject to the limitations in RSA 359-C:6, the examination by, or disclosure to, any supervisory agency of financial or credit records which relate solely to the exercise of its supervisory function. The scope of an agency's supervisory function shall be determined by reference to statutes which grant authority to examine, audit or require reports of financial or credit records of financial institutions[, communications common carrier] or [credit reporting agencies] **creditors**.

12 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill revises the right to privacy act. Specifically, the bill replaces the term "credit reporting agency" with the term "creditor".

SENATOR COLANTUONO: This bill originated in the House as a bill to change the privacy act, 359-C by taking out any references to credit reporting agencies, because there was no definition of credit reporting agencies in the original law and it was basically unenforceable according to the Attorney General's Office, so they were trying to clean it up; but when it came to the committee hearing, the question was raised, why shouldn't creditors have to abide by the privacy act and not give out information to the state without going through the proper channels? So we requested the Attorney General's Office to revise the bill to fix the problem with the definitions, but to leave creditors in there so that is what has happened on page 19 of the calendar. The Attorney General's Office went through, and in our opinion, greatly approved, and fixed, the problem with the existing law, but keeping creditors in there so that now, in addition to banks, any other kind of creditor will also not be able to give out information to the state or any other agency investigating an individual unless they get a proper subpoena, grand jury subpoena or a court order. We recommend ought to pass as amended.

Committee amendment adopted.

Ordered to third reading.

HB 1494-FN-L, an act implementing the recommendations of the New Hampshire supreme court long-range planning task force regarding the judicial branch. Judiciary committee. Ought to Pass with Amendment. Senator Podles for the committee.

5939L

Amendment to HB 1494-FN-LOCAL

Amend RSA 464-A:42 as inserted by section 13 of the bill by replacing it with the following:

464-A:42 Settlements on Behalf of Minors. No settlement, the amount of which exceeds [\$1,500] **\$5,000**, of any suit or claim brought on behalf of [an infant] **a minor** by parent or next friend shall be valid unless approved by the court in which the action is pending or to which [the] a writ [is] **may be made** returnable. [In any suit on behalf of an infant or against an infant or in which an infant is interested, the court may make all necessary orders for protecting the interests of the infant and may require the guardian ad litem, parent or next friend to give bond to truly account for all money received on behalf of the infant whether through settlement, judgment, decree or other order.] **In any suit or claim on behalf of a minor or against a minor or in which a minor is interested which exceeds \$5,000, the court shall require proof in the form of a certified statement from the probate court that the guardian ad litem, parent, next friend, or other person who receives money on behalf of the minor whether through settlement, judgment, decree or other order, has been appointed guardian of the estate of such minor and is subject to the duties prescribed under RSA 464-A:26.**

Amend RSA 491:22 as inserted by section 16 of the bill by replacing it with the following:

491:22 Declaratory Judgments. Any person claiming a present legal or equitable right or title may maintain a petition against any person claiming adversely to such right or title to determine the question as between the parties, and the court's judgment or decree thereon shall be conclusive. **The district court shall have concurrent jurisdiction over such claims arising under its subject matter jurisdiction authority in RSA 502-A except that the defendant shall have the right to remove said declaratory judgment action to the superior court, subject to conditions established by rule of court, if the claim exceeds \$1,500. The court of probate shall have exclusive jurisdiction over such claims arising under its subject matter jurisdiction authority in RSA 547 and RSA 552:7.** No petition shall be maintained under this section to determine coverage of an insurance policy unless it is filed within 6-months after the filing of the writ which gives rise to the question; provided, however, that the foregoing prohibition shall not apply where the facts giving rise to such coverage dispute are not known to, or reasonably discoverable by, the insurer until after expiration of such 6-month period; and provided, further, that the superior court may permit the filing of

such a petition after such period upon a finding that the failure to file such petition was the result of accident, mistake or misfortune and not due to neglect.

Amend RSA 491-A:3, IV as inserted by section 17 of the bill by replacing it with the following:

IV. [If application of this or other provision of law results in a part-time district court justice receiving a salary which equals 70 percent of the salary of a full-time district court justice,] The supreme court, after reviewing population, caseload, judicial time **and efficiency**, available judicial resources and other relevant criteria, may determine that said justice shall become full-time, **provided that funds have been specifically appropriated for the salary and benefits for a full-time district court justice.**

Amend RSA 491-A:4, IV as inserted by section 18 of the bill by replacing it with the following:

IV. [If application of this or any other provision of law results in a probate judge receiving a salary which equals 70 percent of the salary of a full-time district court justice,] The supreme court, after reviewing population, caseload, judicial time **and efficiency**, available judicial resources and other relevant criteria, may determine that [said] **any part-time** probate judge become full-time, **provided that funds have been specifically appropriated for the salary and benefits for a full-time probate judge.**

Amend the bill by replacing section 48 with the following:

48 Landlord-Tenant; Appeals. RSA 540:20 is repealed and reenacted to read as follows:

540:20 Appeal. Any party to an action brought pursuant to this chapter shall, within 7 days of the notice of judgment date, file in the district court notice of intent to appeal to the supreme court. Said appeal shall otherwise be filed in accordance with supreme court rule. In all other respects, the judgment of the district court shall be final at the expiration of the appeal period.

Amend the bill by replacing section 90 with the following:

90 Actions Against Tenants; Writ; Services; Discovery; Record; Default. RSA 540:13 is repealed and reenacted to read as follows:

540:13 Writ; Service; Discovery; Record; Default.

I. A writ of summons may be issued, returnable before a district court, setting forth in substance that the plaintiff is entitled to the possession of the demanded premises, and that the defendant is in possession thereof without right, after notice in writing, to quit the same at a day named therein.

II. The writ shall be accompanied by a notice from the district court, printed in no smaller than 12-point type, informing the tenant that:

(a) If the tenant wishes to contest the eviction, he must file an appearance in the district court no later than the return day appearing on the writ.

(b) The tenant shall not be evicted unless the court so orders; however, such an order may be granted if the tenant does not file an appearance.

(c) At the time the tenant files his appearance, he may request that the court make a sound recording of the eviction hearing by checking an appropriate box on the appearance form.

(d) If the tenant wishes to appeal the district court's decision, he must:

(1) File a notice of intent to appeal with the district court within 7 days of the notice of the district's decision; and

(2) File a notice of appeal in the supreme court within 30 days of the notice of the district court's decision; and

(3) Pay all rent, as it comes due, between the date of the notice of intent to appeal the district court's decision and the final disposition of the appeal.

III. The writ of summons and the notice provided in paragraph II shall be served no less than 7 days before the return day set forth in the writ.

IV. Both parties shall have a right to engage in discovery prior to the hearing on the merits within such time frame as may be established for eviction actions by the Rules of the District Court.

V. If the tenant files an appearance, notice of the hearing shall be mailed to the parties no less than 7 days prior to the hearing. If the tenant fails to file an appearance or fails to appear at the hearing on the merits, the court shall mail a notice of default to the address set forth on the summons at least 3 days prior to the issuance of the writ of possession.

VI. In deciding any contested hearing, the court shall issue a written decision setting forth the basis for its decision.

91 Landlord-Tenant; Discretionary Stay Dependent on Payment of Rent. Amend RSA 540:13-c, I to read as follows:

I. If the defendant defaults, or confesses judgment, or if on trial the court rules that the landlord has sustained his complaint, judgment shall be rendered that the landlord recover possession of the premises and costs. A writ of possession shall be issued, provided that, [except in cases of nonpayment of rent,] the court may order the tenant shall not be dispossessed until a date not later than 3 months from such default, confession of judgment, or ruling of the court, provided the court decides that under all the circumstances justice requires such stay, based on the reasonableness and good faith of the parties in their respective reports, complaints, demands, and evidence. In the event of any such stay of dispossession, the

tenant shall pay the landlord weekly in advance the weekly former rent, or the proportional weekly part of the former rent if rent was payable less often than weekly, and on default of any such advance weekly payment a writ of possession shall be issued and the sheriff shall evict the tenant as soon as possible.

92 Freeze on Judicial Appointments. No further appointments shall be made to any district court bench after the effective date of this act until the present list of full-time, part-time and special justices is exhausted, without certification of need by the chief justice of the New Hampshire supreme court.

93 Effective Date.

I. Sections 22, 23, 42-44, 48, 73-77, and 79-83 of this act shall take effect July 1, 1992.

II. Section 11 and paragraph I of section 86 of this act shall take effect upon its passage.

III. The remainder of this act shall take effect January 1, 1993.

Amend the bill by deleting sections 4, 5 and 7 and renumbering the original sections 6 and 8-93 to read as 5-90, respectively.

AMENDED ANALYSIS

This bill implements recommendations of the New Hampshire supreme court long-range planning task force, including:

(1) Changes to expand the definition of "absentee" qualifying for a conservatorship appointment and to require the appointment of a guardian of the estate of a minor to settle a claim over \$5,000 on behalf of the minor.

(2) Allowing the supreme court to make part-time district and probate court judges full-time without the current 70 percent requirement.

(3) Restructuring the judicial council.

(4) Increasing the jurisdiction of the probate and district courts and amending statutes relative to superior court jurisdiction to conform to the increased jurisdiction of the other courts.

(5) Providing for establishment of retention and destruction schedules for court records.

(6) Providing for department of safety drivers' license list as jury pools.

(7) With regard to the district courts, updates methods of determining salaries of the district court special justices; increases district court jurisdiction, including equity jurisdiction; authorizes the supreme court to create regional jury trial courts; and increases the damage amount which entitles the defendant to transfer a case for jury trial to conform with the New Hampshire constitution.

(8) Consolidating partition of real estate laws so that all such cases shall be heard originally in the probate courts.

(9) Establishing procedures for landlord/tenant cases in the district courts and for appeal of such cases to the supreme court.

(10) With regard to the probate courts, consolidates existing and new probate court jurisdiction; provides that trials in probate court will be non-jury; provides for probate court jurisdiction in equity and declaratory judgment matters; provides probate court jurisdiction to quiet title and over express trusts and concurrent jurisdiction with the superior court over other trusts and charitable uses; provides right of appeal to superior court where constitutionally required; updates methods of determining salaries of probate court referees and masters; and provides jurisdiction to the probate court with respect to fraud, duress, and undue influence as they relate to the execution of a will.

This bill also places a freeze on the appointment of district court judges unless the current list of justices is exhausted and need is certified by the chief justice of the supreme court.

SENATOR PODLES: Mr. President, HB 1494 is implementing sweeping changes within the court system. District courts will be charged with more responsibilities in jurisdictions and it also shifts responsibilities and jurisdictions from Superior Court to the Probate Court, thus utilizing all courts. The bill also expands the definition of absentee in regard to appointment of a conservator of an estate of a minor to settle a claim over \$5,000. It establishes procedures for landlord-tenant cases in district court and for appeal to the Supreme Court. It allows the Supreme Court to make part time District and Probate Court judges, full-time, provided that funds have been specifically appropriated for the salary, and also for the benefits. The legislation changes the structure of the judicial council, it expands the membership to include a higher representation of lay people and refocuses the council's duties. It updates the methods of determining salaries of the District Courts special justices, salaries of the Probate Court referees and masters. I would like to tell you that there are no hidden pay raises for judges or new positions in this bill. The bill also places a freeze on the appointment of District Court judges until the present list of full-time and part-time and special justices is exhausted. The so-called omnibus bill provides for the Department of Safety drivers license list as jury pools and provides for the retention and destruction of court records. The staggered effect of dates that you find in the bill are necessary to institute the program. This legislation has no fiscal impact. It is designed to make the system more efficient, promises to work a lot better to serve the public and will in all probability, cut cost. It is an allocation of resources into courts where the system can be better handled and cases will come to trial a lot sooner. I will have to tell

you that this is long overdue. The Judiciary committee worked long hours. We worked many days on this bill, and they recommend ought to pass with amendment.

Committee amendment adopted.

Ordered to third reading.

HB 1400-FN, an act relative to the comprehensive shoreland protection act. Environment committee. Ought to Pass with Amendment. Senator W. King for the committee.

5963L

Amendment to HB 1400-FN

Amend the bill by replacing section 4 with the following:

4 New Paragraph; Definition; Ordinary High Water Mark. Amend RSA 483-B:4 by inserting after paragraph XI the following new paragraph:

XI-a. "Ordinary high water mark" means the line on the shore, running parallel to the main stem of the river, established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the immediate bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas. Where the ordinary high water mark is not easily discernable, the ordinary high water mark may be determined by the department of environmental services.

Amend the bill by replacing section 6 with the following:

6 Definition of Public Boundary Line. Amend RSA 483-B:4, XVII(a) to read as follows:

(a) For natural fresh water bodies without artificial impoundments, the [natural mean] **ordinary** high water [level as determined by the division of water resources of the department] **mark**.

Amend the bill by replacing section 10 with the following:

10 Prior Approval; Permits. RSA 483-B:6 is repealed and reenacted to read as follows:

483-B:6 Prior Approval; Permits.

I. Within the protected shoreland, any person intending to:

(a) Engage in any earth excavation activity shall obtain all necessary local approvals in compliance with RSA 155-E.

(b) Construct a water dependent structure as described in RSA 483-B:9, II(c) shall obtain approval and all necessary permits pursuant to RSA 482-A.

(c) Install a septic system as described in RSA 483-B:9, V(b)(1)-(3) shall obtain all permits pursuant to RSA 485-A:29.

(d) Conduct an activity resulting in a contiguous disturbed area exceeding 50,000 square feet shall obtain a permit pursuant to RSA 485-A:17.

(e) Subdivide land for residential or non-residential development as described in RSA 483-B:9, V(d) and (e) shall obtain approval pursuant to RSA 485-A:29.

II. In applying for these approvals and permits, such persons shall demonstrate to the satisfaction of the department that the proposal meets or exceeds the development standards of this chapter. The department shall grant, deny, or attach reasonable conditions to a permit listed in subparagraphs I(a)-(e), to protect the public waters or the public health, safety or welfare. Such conditions shall be related to the purposes of this chapter.

Amend the bill by replacing section 12 with the following:

12 Minimum Shoreland Protection Standards. Amend RSA 483-B:9, I to read as follows:

I. The standards in this section are designed to minimize shoreland disturbance so as to protect the public waters, while still accommodating reasonable levels of development in the protected shoreland. **Development outside the protected shoreland shall conform to local zoning and shall not be subject to standards established in this chapter.**

Amend RSA 483-B:9, IV-c as inserted by section 14 of the bill by replacing it with the following:

IV-c. An existing solid waste facility which is located within 250 feet of the ordinary high water mark of protected waters under this chapter may continue to operate under an existing permit, provided it does not cause degradation to an area in excess of that area under permit.

IV-d. No solid waste facility shall place solid waste within 250 feet of the ordinary high water mark of protected waters under this chapter except as expressly permitted under RSA 483-B:9, IV-c. However, any solid waste facility may be allowed, subject to permitting conditions under RSA 149-M:10, to erect accessory structures and conduct other activities consistent with the operation of the facility within 250 feet of the ordinary high water mark of protected waters under this chapter, such as filling, grading and installing monitoring wells and other drainage structures as is consistent with its solid waste permit as issued by the department of environmental services. Under no circumstances shall the toe of any slope encroach within 150 feet of the ordinary high water mark.

Amend the bill by replacing section 15 with the following:

15 Minimum Shoreland Protection Standards; Natural Woodland Buffer. Amend RSA 483-B:9, V(a)(2)(A), (B) and (C) to read as follows:

(A) Not more than a maximum of 50 percent of the basal area of trees, and a maximum of 50 percent of the total number of saplings shall be removed for any purpose in a 20-year period **from the date of permit issued under this chapter**. A healthy, well-distributed stand of trees, saplings, shrubs and ground covers and their living, undamaged root systems shall be left in place. **Replacement planting with native or naturalized species may be permitted to maintain the 50 percent level.**

(B) Any person proposing to remove any trees, saplings, shrubs, or ground cover from any lot within the natural woodland buffer shall document with photographs or videotape all of such existing plant types. For the purpose of establishing the initial pre-project vegetative inventory on larger projects, whenever an alteration of terrain permit is determined to be necessary, a forest inventory plan shall be prepared by a professional forester licensed pursuant to RSA 310-A for all project lands located within 150 feet of the public boundary line.

(C) Trees, saplings, shrubs and ground covers which are removed to clear an opening for building construction, **accessory** structures, septic systems, roadways, pathways, and parking areas shall be excluded when computing the percentage limitations under subparagraph (a)(2)(A).

Amend the bill by replacing all after section 19 with the following:

20 Land Clearing for Agricultural Purposes. Amend RSA 483-B:3, III to read as follows:

III. All agricultural activities and operations in the state as defined in RSA 21:34-a and as governed by RSA 430, including the use of animal manure, lime, wood ash, irrigation[,] **and the clearing of land for agricultural utilization**, and other agricultural technologies, shall be exempt from the provisions of this chapter, provided such activities and operations are in conformance with **the most recent** best management practices determined by the United States Department of Agriculture Soil Conservation Service, the United States Department of Agriculture Cooperative Extension Service and the department of agriculture. **Persons carrying out such agricultural activities and operations in the protected shoreland shall work directly with the local representatives of the above agencies for their particular property.**

21 Definition of Protected Shoreland. Amend RSA 483-B:4, XV to read as follows:

XV. "Protected shoreland" means **for natural, fresh water**

bodies without artificial impoundments, artificially impounded fresh water bodies and coastal waters, and all land located within 250 feet of the public boundary line of public waters[.] In no case shall protected shoreland include land set back 100 feet or more from the boundary of the 100 year floodplain on rivers as mapped by the Federal Emergency Management Agency (FEMA). Where the ordinary high water mark is not easily discernible, the ordinary high water mark shall be determined by the division of water resources of the department of environmental services.

22 Change From "Commissioner" to "Department". Amend RSA 483-B:7 to read as follows:

483-B:7 Reporting; On-Site Inspections; Local Participation. The [commissioner] **department** may devise a system whereby municipal officials may voluntarily assist with the permitting process under RSA 483-B:6 and the subsequent enforcement of permit conditions, by performing certain reporting functions relative to on-site inspections. Utilization of such reports shall be at the [commissioner's] **department's** discretion, but may, when appropriate, obviate the need for further on-site review by department staff.

23 Rehearings and Appeals. Amend RSA 483-B:14 to read as follows:

483-B:14 Rehearings and Appeals.

[I. Any party aggrieved by a decision of the commissioner issued under this chapter may request a rehearing or appeal from such decision in accordance with RSA 541.

II.] Where the requirements of this chapter amend the existing statutory authority of the department or other agencies relative to certain established regulatory programs and shall be enforced under these established regulatory programs, the existing procedures governing contested cases and hearings and appeals regarding these requirements shall apply. Where requirements of this chapter are new and do not amend existing statutory authority relative to any established regulatory programs, the procedures set forth in RSA 541-A:16 for contested cases [and in RSA 483-B:14, I for appeals] shall apply.

24 Rulemaking. Amend RSA 483-B:17 to read as follows:

483-B:17 Rulemaking. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to:

I. The content and structure of all forms, applications and permits to be received or issued by the department under this chapter, including information and other materials to be submitted by an applicant.

II. [Procedures for filing and review of applications for shoreland development submitted to the department.

III. Procedures for the issuance of permits by the department.

IV.] Procedures for filing and review of requests for urbanized shoreland exemptions and standards for granting urbanized shoreland exemptions, **including time frames for decisions.**

[V.]III. Enforcement of the minimum shoreland standards, including methods and timing of inspection and coordination with municipalities.

[VI.]IV. Procedures and criteria for the placement of small accessory structures such as storage sheds and gazebos, the size, placement, and construction of which is consistent with the intent of this chapter, between the public boundary line and the primary building line.

[VII. Requiring reasonable proof of ownership of the shoreland parcel by the applicant, supplied either by the owner or his authorized agency.

VIII.]V. Criteria governing the assessment of administrative fines.

[IX. Establishing a fee structure for the filing of applications with the department to review activities requiring a shoreland development permit that do not come under existing regulatory programs of the department. Such fees shall be sufficient to support the administration of the program, exclusive of start-up costs.]

25 Shoreland Exemptions. Amend RSA 483-B:19, II to read as follows:

II. The provisions of this chapter shall not apply to:

(a) Any applicant whose land is in any municipality which adopts the model ordinance prepared by the office of state planning under paragraph I and provided to the commissioner, or a more stringent version of such model ordinance.

(b) Rivers, or segments thereof, designated by the general court and approved for management and protection under RSA 483 prior to January 1, 1993. Local standards recommended by a local river management advisory committee appointed under RSA 483:8-a and adopted by a municipality under RSA 674 may supersede the standards outlined herein, whether they be greater or lesser. Those standards shall be consistent with RSA 483-B:2. Notwithstanding the above, standards adopted herein may not be less than standards adopted by the state of New Hampshire for non-shoreland properties.

26 Repeal. RSA 483-B:13, relative to a public hearing and notice to abutter, is repealed.

27 Effective Date. This act shall take effect January 1, 1993.

AMENDED ANALYSIS

This bill makes technical changes to the shoreland protection act, as well as:

(a) Affording municipalities equitable relief relative to violations of the shoreland act.

(b) Amending rulemaking authority.

(c) Defining "ordinary high water mark."

(d) Redefining "protected shoreland."

SENATOR W. KING: As you will recall in the last session, we passed the shoreline protection act as it related to lakes and ponds only. This adds rivers to the shoreline protection language. There will be a couple of floor amendments to correct some technical flaws in the amendment that you see printed, but the committee urges its passage. We have labored a long time and obtained agreement from all of the different interests that were represented in this bill. I urge its passage.

Recess.

Senator Dupont in the Chair.

SENATOR OLESON: Mr. President, I believe . . . I just came in, but this is in regard to HB 1400 and Mr. President, what is the motion on the floor at the present time?

SENATOR DUPONT (In the Chair): The motion on the floor is ought to pass with amendment.

SENATOR OLESON: What disturbs me mainly, Mr. President, as much as anything, last night we came to a certain agreement that certain sections of this bill might be taken out. I haven't gone through the amendment, and I thought that section that we had more or less talked about yesterday afternoon or late yesterday afternoon has been retained. I understand that my fellow colleague, Mr. King, has been hurrying around trying to delete that. If I can find one section that has been retained after we had voted it down, I really don't know how many other things that haven't been corrected which we came to agreement with last night, therefore, I would like to move at the proper time that we have this laid on the table for further study.

Senator Heath moved to have HB 1400-FN an act relative to the comprehensive shoreland protection act laid on the table.

Division vote requested.

Yeas 11

Nays 12

Motion to lay HB 1400 on the table fails.

SENATOR W. KING: Thank you for not laying this on the table. Let me just repeat. This has required a lot of work on the part of the members of the Environment committee and we have brought some very diverse interests to the table and have gotten an agreement from everybody on the way to address the issue of adding rivers into the language on shoreline protection. There are two floor amendments that will follow that will correct the issue that Senator Oleson raised, that he discovered in the language in the calendar, so that the issue that he raised should be moved after that.

SENATOR DISNARD: On the floor amendment #5979 on the first page, C, under 16, does an applicable once they build, they would have to replace the certain amount to meet the 50 or does this say that this could denude the entire lot where the building is going?

SENATOR W. KING: Senator Disnard, to which are you referring?

SENATOR DISNARD: On that page, under a, it indicates that a certain percentage of trees must be replaced to meet the 50 percent level. Under C, is that exception that whatever they site, they don't have to . . .

SENATOR W. KING: Well, let me say that the length of this floor amendment is a bit deceiving, because frankly, it just changes one piece and that is to remove section B, that you see in the calendar on page 14, where we are going to talk about this after we adopt the amendment. On page 14 down about 2/3 of the way down, section b, was supposed to be removed in the amendment, and it was not, and this floor amendment does that. But apparently when you offer an amendment to do that, they have got to include also, the language that surrounds it, because of the renumbering.

SENATOR DISNARD: Thank you.

SENATOR NELSON: This is a follow-up on Senator Disnards question. Referred here is 'may be permitted'. I didn't know if I quite understood Senator Disnards question, but it doesn't say that it is necessary, but it says, 'may be'.

SENATOR W. KING: What the law says is that if you are going to be cutting trees within a certain strip along any river body or any lake body, that you may only take 50 percent of the basal area; in other words, of the total area of all of the trees.

SENATOR HEATH: Over what period?

SENATOR W. KING: Over a 20 year period. If you have to cut more than that to do whatever building it is that you are doing, you can add additional, you can even add trees back in so that you are within the 50 percent limit.

SENATOR NELSON: What is the sense of putting this in if it is only permissible, in other words, a person could take down 50 percent of the trees over a 20 year period and never put a tree in.

SENATOR W. KING: That is correct. But you had to take down 60 in order to live within the law, or if you wanted to take down 60, for whatever reason, you could take down 60 and then do a replacement planting so that you are still in the terms of the law. It is merely to make the law more flexible in that area.

Committee amendment adopted.

SENATOR W. KING: #5976L that you see before you, there is within the bill an exemption for rivers that fall within the rivers protection and management program. This floor amendment merely says that it is the intent of the general court to review how effective that particular section of the law is in a couple of years to make sure that we are indeed meeting our goals in terms of preservation of water quality and prevention of erosion and those types of issues. We urge its adoption.

Senator W. King offered a floor amendment.

5976L

Floor Amendment to HB 1400-FN

Amend the bill by inserting after section 25 the following and re-numbering the original sections 26 and 27 to read as 27 and 28, respectively:

26 General Court Review of Rivers Exemption. It is the intent of the general court that the senate environment and house resources, recreation and development committees shall, by 1995, review the effectiveness of RSA 483-B:19, II(b), relative to the exemption of rivers or river segments from the provisions of the shoreland protection act, in protecting water quality and quantity in those designated exempted rivers or river segments.

SENATOR NELSON: Senator King, I don't understand why it is just the Senate Environment committee that is going to review the effectiveness of this, relative to the exemption without any input from the House and their committees or . . .

SENATOR W. KING: No, it is Senate Environment and House Resources and Recreation.

SENATOR NELSON: What about wildlife and those people?

SENATOR W. KING: Senator Nelson, all that this does is state intent that when the time comes, I am sure that Senator Heath will be down here from Sandwich to urge the Senate to make sure that the Wildlife committee is considered in that discussion as well.

SENATOR MCLANE: For a visit . . .

SENATOR W. NELSON: So I understand, is this the story? You are not really interested in what is in the water, you are only concerned about what is around the water, that is why it is only your committee?

SENATOR W. KING: Senator Nelson, this law deals with the land that is adjacent to the water and the protection of water quality there and thereby.

SENATOR NELSON: Thank you.

Floor amendment adopted.

SENATOR W. KING: I would like to offer #5979L floor amendment. This floor amendment does only one thing. The reason for its length is because other sections had to be renumbered in the bill. You will see on page 14, two-thirds of the way down, section b. Section b requires the owners of the land along rivers or lakes to photograph or videotape the original condition of their property. Hear me out here folks. It requires them to photograph or videotape the original condition of their land. We felt that that was inappropriate, and have removed it from the bill. It is much easier in terms of enforcement and reliability to measure the basal area of trees that have been cut down. We urge your passage of this amendment to correct what we had intended to correct anyways.

Senator W. King offered a floor amendment.

5979L

Floor Amendment to HB 1400-FN

Amend the bill by replacing all after section 14 with the following:

15 Minimum Shoreland Protection Standards; Natural Woodland Buffer. Amend RSA 483-B:9, V(a)(2)(A) to read as follows:

(A) Not more than a maximum of 50 percent of the basal area of trees, and a maximum of 50 percent of the total number of saplings shall be removed for any purpose in a 20-year period **from the date of permit issued under this chapter**. A healthy, well-distributed stand of trees, saplings, shrubs and ground covers and their living, undamaged root systems shall be left in place. **Replacement planting with native or naturalized species may be permitted to maintain the 50 percent level.**

16 Minimum Shoreland Protection Standards; Natural Woodland Buffer. Amend RSA 483-B:9, V(a)(2)(C) to read as follows:

(C) Trees, saplings, shrubs and ground covers which are removed to clear an opening for building construction, **accessory**

structures, septic systems, roadways, pathways, and parking areas shall be excluded when computing the percentage limitations under subparagraph (a)(2)(A).

17 Septic Systems. Amend RSA 483-B:9, V(b)(1) and (2) to read as follows:

(1) All new lots, **including those in excess of 5 acres**, created within the protected shoreland are subject to subdivision approval by the division of water supply and pollution control, subsurface systems bureau under RSA 485-A:29[, regardless of size].

(2) The following conditions, based on the characteristics of the receiving soil as they relate to U.S. Department of Agriculture, soil conservation service drainage classes, shall dictate the setback requirements for all new septic tanks and leaching portions of new septic systems, as follows:

(A) **Adjacent to ponds, lakes, estuaries and the open oceans.**

(i) Where the receiving soil downgradient of the leaching portions of a septic system is a porous sand and gravel material with a percolation rate faster than 2 minutes per inch, the setback shall be at least 125 feet from the public boundary line;

[(B)] (ii) For soils with restrictive layers within 18 inches of the natural soil surface, the setback shall be at least 100 feet from the public boundary line; and

[(C)] (iii) For all other soil conditions, the setback shall be at least 75 feet from the public boundary line.

(B) **Adjacent to rivers the setback shall be no less than 75 feet, and may be greater if approved by the commissioner.**

18 Septic Systems. Amend RSA 483-B:9, V(d)(1) and (2) to read as follows:

(d) **MINIMUM LOTS AND RESIDENTIAL DEVELOPMENT.** In the protected shoreland:

(1) The minimum size for new lots in areas dependent upon on-site septic systems shall be determined by soil type lot size determinations, as [set forth under rules adopted pursuant to 541-A] **established by the water supply and pollution control division.**

(2) For [new lots] **projects** in areas dependent upon on-site **sewage and** septic systems, the total number of residential units[, including] **in the protected shoreland, whether built on individual lots or grouped as cluster [and] or condominium development,** shall not exceed one unit per 150 feet of shoreland frontage. **Development outside the protected shoreland shall conform to local zoning and shall not be subject to standards established in this chapter.**

19 Nonconforming Lots of Record. Amend RSA 483-B:10, II to read as follows:

II. **Building on** nonconforming lots of record shall [not be used for structures other than] **be limited to** single family residential structures **and related facilities**, including, but not limited to, docks, piers, boathouses, boat loading ramps, walkways, and other water dependent structures, **consistent with state law**.

20 Nonconforming Structures. Amend RSA 483-B:11, I to read as follows:

I. Except as otherwise prohibited by law, pre-existing structures located within the protected shoreland may be repaired, improved, or expanded. An expansion that increases the sewerage load, for example, additional bedrooms, shall require approval by the department. Between the primary building line and the public [building] **boundary** line, no alteration shall extend the structure closer to the public water; except that the addition of an open deck or porch is permitted up to a maximum of 12 feet towards the public boundary line.

21 Land Clearing for Agricultural Purposes. Amend RSA 483-B:3, III to read as follows:

III. All agricultural activities and operations in the state as defined in RSA 21:34-a and as governed by RSA 430, including the use of animal manure, lime, wood ash, irrigation[,] **and the clearing of land for agricultural utilization**, and other agricultural technologies, shall be exempt from the provisions of this chapter, provided such activities and operations are in conformance with **the most recent** best management practices determined by the United States Department of Agriculture Soil Conservation Service, the United States Department of Agriculture Cooperative Extension Service and the department of agriculture. **Persons carrying out such agricultural activities and operations in the protected shoreland shall work directly with the local representatives of the above agencies for their particular property.**

22 Definition of Protected Shoreland. Amend RSA 483-B:4, XV to read as follows:

XV. "Protected shoreland" means **for natural, fresh water bodies without artificial impoundments, artificially impounded fresh water bodies and coastal waters, and** all land located within 250 feet of the public boundary line of public waters[.] **In no case shall protected shoreland include land set back 100 feet or more from the boundary of the 100 year floodplain on rivers as mapped by the Federal Emergency Management Agency (FEMA). Where the ordinary high water mark is not easily discernible, the ordinary high water mark shall be determined by the division of water resources of the department of environmental services.**

23 Change From "Commissioner" to "Department". Amend RSA 483-B:7 to read as follows:

483-B:7 Reporting; On-Site Inspections; Local Participation. The [commissioner] **department** may devise a system whereby municipal officials may voluntarily assist with the permitting process under RSA 483-B:6 and the subsequent enforcement of permit conditions, by performing certain reporting functions relative to on-site inspections. Utilization of such reports shall be at the [commissioner's] **department's** discretion, but may, when appropriate, obviate the need for further on-site review by department staff.

24 Rehearings and Appeals. Amend RSA 483-B:14 to read as follows:

483-B:14 Rehearings and Appeals.

[I. Any party aggrieved by a decision of the commissioner issued under this chapter may request a rehearing or appeal from such decision in accordance with RSA 541.

II.] Where the requirements of this chapter amend the existing statutory authority of the department or other agencies relative to certain established regulatory programs and shall be enforced under these established regulatory programs, the existing procedures governing contested cases and hearings and appeals regarding these requirements shall apply. Where requirements of this chapter are new and do not amend existing statutory authority relative to any established regulatory programs, the procedures set forth in RSA 541-A:16 for contested cases [and in RSA 483-B:14, I for appeals] shall apply.

25 Rulemaking. Amend RSA 483-B:17 to read as follows:

483-B:17 Rulemaking. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to:

I. The content and structure of all forms, applications and permits to be received or issued by the department under this chapter, including information and other materials to be submitted by an applicant.

II. [Procedures for filing and review of applications for shoreland development submitted to the department.

III. Procedures for the issuance of permits by the department.

IV.] Procedures for filing and review of requests for urbanized shoreland exemptions and standards for granting urbanized shoreland exemptions, **including time frames for decisions.**

[V.] **III.** Enforcement of the minimum shoreland standards, including methods and timing of inspection and coordination with municipalities.

[VI.]IV. Procedures and criteria for the placement of small accessory structures such as storage sheds and gazebos, the size, placement, and construction of which is consistent with the intent of this chapter, between the public boundary line and the primary building line.

[VII. Requiring reasonable proof of ownership of the shoreland parcel by the applicant, supplied either by the owner or his authorized agency.

VIII.]V. Criteria governing the assessment of administrative fines.

[IX. Establishing a fee structure for the filing of applications with the department to review activities requiring a shoreland development permit that do not come under existing regulatory programs of the department. Such fees shall be sufficient to support the administration of the program, exclusive of start-up costs.]

26 Shoreland Exemptions. Amend RSA 483-B:19, II to read as follows:

II. The provisions of this chapter shall not apply to:

(a) Any applicant whose land is in any municipality which adopts the model ordinance prepared by the office of state planning under paragraph I and provided to the commissioner, or a more stringent version of such model ordinance.

(b) **Rivers, or segments thereof, designated by the general court and approved for management and protection under RSA 483 prior to January 1, 1993. Local standards recommended by a local river management advisory committee appointed under RSA 483:8-a and adopted by a municipality under RSA 674 may supersede the standards outlined herein, whether they be greater or lesser. Those standards shall be consistent with RSA 483-B:2. Notwithstanding the above, standards adopted herein may not be less than standards adopted by the state of New Hampshire for non-shoreland properties.**

27 Repeal. RSA 483-B:13, relative to a public hearing and notice to abutter, is repealed.

28 Effective Date. This act shall take effect January 1, 1993.

SENATOR HEATH: Senator King, this whole bill seems to me, just about throws out the private property considerations. Have you been aware that there is an important bill before the Supreme Court that may very well put a halt to some of the things that would be contained in a piece of bill that has such disregard for private property?

SENATOR W. KING: Senator Heath, I am not going to agree with you on the issue of the way that this affects private property rights,

but I will say yes, I do indeed know about the Supreme Court decision that is pending, it will help to clarify some of these issues as we move forward.

SENATOR HEATH: Are you concerned at all with what this bill does to private property in New Hampshire as a doctrine?

SENATOR W. KING: I think that we have very carefully balanced the interest of the public with the interest of private property owners.

SENATOR NELSON: Senator King, would you reiterate the part of the remark that you made to Senator Heath about private property, about the way the federal government . . .

SENATOR W. KING: What I said is that this bill and the shoreline protection act, itself, very carefully balances the publics' right and the rights of private property owners, the publics' right to clean water; and the publics' rights to a healthy environment, and with the rights of private property owners.

SENATOR NELSON: How about the piece about the federal government?

SENATOR W. KING: Well . . .

SENATOR NELSON: You made a remark, I believe I understood you to say something about the federal government?

SENATOR W. KING: There is a bill before the United States Supreme Court right now that asks the question, at what point does state regulations or local regulations of private property rights become a . . . in other words, deprive that person of their private property. That will help to sort out some of the issues, I am sure, as time goes on, but we believe that this is not a 'taking' in any way.

SENATOR HEATH: Senator King, will you commit to me on this floor today, that if that case of, based on the fifth amendment, the case of taking, that I think is a North Carolina shoreline case, if that case before the Supreme Court interprets a different view than yours, about the sanctity of private property, ie, that private property really is private property, and that the end of ones fist and the beginning of ones nose is a demarcation, not halfway up the elbow, as this bill seems to suggest; would you commit to me, sir, that you would come back and revisit this legislation and not make somebody have to wind their way all the way to the Supreme Court to get the relief that the Court, hopefully, is going to give them?

SENATOR W. KING: Senator Heath, obviously, the outcome of the Supreme Court decision is never a black and white issue, generally it is targeted into specific areas.

SENATOR HEATH: Is that a no?

SENATOR W. KING: No, hear me out. It is generally targeted in specific areas. The answer to your question, however, Senator Heath, is that if it is clear where the Supreme Courts decision that we ought to take a look at the shoreline protection law or any other law, I am most willing to do that as long as you support this bill.

SENATOR SHAHEEN: Senator King, I want to get your interpretation of the last section b, II at the bottom of page 15. Do I understand this to say that those rivers that have been designated already, will not be covered by this bill, unless the local ordinances that are put in place to govern them are less stringent than the bill?

SENATOR W. KING: What it says is that if rivers under the rivers protection and management program are exempted if the local advisory committees have recommended mechanisms for their protection and those mechanisms have been adopted. It does not say that they have to be more stringent; because we wanted to leave the latitude, frankly, to those committees for coming up with more innovative ways to solve the same problem. However, it does also say that in two years the intent of the amendment that we just passed is that in two years it is our intent to look at how successful that idea is. The idea here is, with the rivers that we have designated as the jewels in the state within the rivers management and protection program, that we put the onus on local groups for their protection and that there are those who would advocate that because they think that the local groups are going to do a better job at protecting those rivers than the state is.

SENATOR SHAHEEN: I recognize that in some cases, that you might have local groups that do a better job or have more stringent standards, but I am concerned about those places where those rivers are not covered, because they haven't been able to reach an agreement or that they are not covered because they haven't been able to get local ordinances passed. In those cases, does this apply?

SENATOR W. KING: In those cases they are covered by the shoreline protections act.

SENATOR SHAHEEN: Okay. Thank you.

Floor amendment adopted.

Ordered to third reading.

SENATOR OLESON: Mr. President, I would like to make a motion of inexpedient to legislate.

SENATOR DUPONT (In the Chair): It is too late.

SENATOR OLESON: I was on my feet, Mr. President.

SENATOR DUPONT (In the Chair): Senator, the appropriate process at this point would be to offer reconsideration if you are . . .

SENATOR OLESON: What can I do to get a motion on the floor?

SENATOR DUPONT (In the Chair): Senator, we were in the voting mode when you stood, so it is too late.

SENATOR HEATH: I could offer reconsideration in which he could speak, right?

SENATOR DUPONT (In the Chair): At the appropriate time, yes.

SENATOR HEATH: Having voted with the majority?

SENATOR DUPONT (In the Chair): You voted with the majority? Then you can offer reconsideration.

SENATOR HEATH: We have a speaking engagement going on here.

HB 1439, an act instituting a motor vehicle emissions inspection program and requiring a study of diesel and other vehicles. Environment committee. Ought to Pass with Amendment. Senator W. King for the committee.

5865L

Amendment to HB 1439

Amend the bill by replacing section 4 with the following:

4 Diesel and Other Exempted Vehicles Study. The house environment and agriculture and the senate environment committees shall study the impact on human health and the environment of certain motor vehicles and their emissions which are currently or proposed to be exempted from certain motor vehicle emissions and air quality laws, regulations, or standards, including but not limited to diesel, electric, compressed natural gas, or propane powered vehicles; vehicles of model year 1967 and older; vehicles over 8,500 pounds; and motorcycles. The committees shall make a recommendation on their findings, including any proposed legislation, by November 1, 1992.

SENATOR W. KING: This is probably one of the most important bills both in terms of environmental protection and in terms of economic development that this body will consider this year. Unfortunately, it has been watered down considerably. What it does is commit the state of New Hampshire to a vehicle emissions inspection program that is to be implemented later after EPA finally gets its act together and gets the rules out for the clean air act. Let me just quickly remind you that the better that we do in terms of reduc-

ing our emissions in the state of New Hampshire, the more potential that we have for other economic growth to occur here. If we do nothing about reducing emissions in the next few years, then we will be unable to attract new businesses to the state of New Hampshire because we will not be able to get permission for them under the clean air act.

SENATOR DISNARD: Senator King, this refers to a plan; is there a plan already developed by Sullivan county, Coos county, an emission control such as some of this section, what are you forcing on the people?

SENATOR W. KING: Senator Disnard, after EPA comes out with its rules, then a proposal will be put together, and it will have to come back to the legislature to be approved.

Recess.

Senator Delahunty in the Chair.

SENATOR DISNARD: Thank you, Senator.

SENATOR HUMPHREY: Senator King, well, what does this bill do if there is no program to implement?

SENATOR W. KING: What it essentially does is, puts the state of New Hampshire on record that it is going to implement the clean air act, and sets up the mechanisms for beginning the process of writing the documents that are necessary for it as well as establishing a study committee to take a look at some of the other issues surrounding the clean air act. Specifically on page three, you see that there is a study on diesel and other exempted vehicles. We will take a look at different kinds of vehicles. Senator St. Jean will be offering a floor amendment after the vote on the bill to make a change in the date of vehicles that we are studying so that some of the newer collector models are also studied in that study.

SENATOR HUMPHREY: Mr. President, parliamentary inquiry. Section three of this bill states that the House Environment and Agriculture and the Senate Environment committees shall recommend legislation for introduction in the next legislative session, can the General Court by statute, bind committees to undertake certain specified activities?

SENATOR W. KING: I can answer that, Mr. President.

SENATOR DUPONT: Please go ahead, Senator King.

SENATOR W. KING: Senator Humphrey, it is expected that EPA will issue its recommendations and rules within the next month so that we will all, regardless of the outcome of the fall elections, be in

office at that time. The members of the Senate Environment committee and the House members of the Environment and Agriculture will work with the Department of Environmental Services to come up with some kind of proposal that they will recommend. Obviously, we cannot bind the next session of the legislature, we can only hope that they will take into consideration our recommendation.

SENATOR HUMPHREY: So the word 'shall', is a figure of speech, not . . .

SENATOR W. KING: Right. Shall is sort of mitigated by recommend.

SENATOR HUMPHREY: Not to be taken literally. Just try and protect our prerogative around here. I still think that it stinks.

Committee amendment adopted.

SENATOR ST. JEAN: Mr. President, I move Senate amendment #5982L. I will explain that. My amendment, you can turn to page 16, number four. This has to do with the exempted vehicles study. As you read through, the third from the bottom line, it limits diesel, electric, compressed and natural gas and propane powered vehicles, vehicles of modeled year 1967 and older. What my amendment does is it changes the model year to 1976. Between 67 and 76, there is a number of collectable cars, big block cars, the Chevy's and the Fords, 327 Chevy Corvettes, the SS 396's. In the Fords, the Mustang's, the Mach I's are all extremely collectable vehicles. What this does is it changes the date to 1976, so individuals can collect those cars and see them appreciate in value and not be affected adversely, because the reason that they are collectable is quite frankly, is because of their big engine and their horsepower that they develop, that they pick to show us and what not. If they were forced to put on emission control devices, it would be quite frankly, extremely expensive to undertake something of that magnitude. I think 1976 is a date that most individuals will be happy with instead of 67.

Senator St. Jean offered a floor amendment.

5982L

Floor Amendment to HB 1439

Amend the bill by replacing section 4 with the following:

4 Diesel and Other Exempted Vehicles Study. The house environment and agriculture and the senate environment committees shall study the impact on human health and the environment of certain motor vehicles and their emissions which are currently or proposed to be exempted from certain motor vehicle emissions and air quality laws, regulations, or standards, including but not limited to diesel,

electric, compressed natural gas, or propane powered vehicles; vehicles of model year 1976 and older; vehicles over 8,500 pounds; and motorcycles. The committees shall make a recommendation on their findings, including any proposed legislation, by November 1, 1992.

Floor amendment adopted.

Ordered to third reading.

SENATOR HOUGH: I now move reconsideration on HB 411 where we voted to concur on SB 411, if I could briefly speak to my motion. We concurred with the House's amendment to SB 411, the bill sponsored by yours truly. It would be my intention if you allow for us to reconsider our actions, to then move non concurrence and not request a committee of conference. The purpose in that is that I would effectively be killing my own bill; and then when we take up the committee on Finance's report, you will find the bill, HB 1468 sponsored by Senator Disnard, and the Finance committee report on that bill will effectively do what SB 411 as amended is doing and it will accommodate the wishes of Senator Disnard to take care of the town of Nelson. I am in agreement with Senator Disnard in the bill that you should ultimately pass is the bill that he sponsored and not the bill that I sponsored.

RECONSIDERATION

Senator Hough moved reconsideration on SB 411-FN relative to special education catastrophic aid.

Adopted.

SENATE NON CONCURS WITH HOUSE AMENDMENT

SB 411-FN, relative to special education catastrophic aid.

Senator Hough moved non concurrence.

Adopted.

TAKEN OFF THE TABLE

Senator W. King moved to have HB 1382 an act requiring all sellers of property to fully disclose information relative to private water supplies and septic and sewage disposal systems taken off the table.

Adopted.

Recess.

Out of recess.

HB 1382, an act requiring all sellers of property to fully disclose information relative to private water supplies and septic and sewage disposal systems.

SENATOR W. KING: Mr. President, I believe that when we left off, we had already adopted the Senate committees amendment. Senator Bass had brought out an amendment that we hadn't seen and we asked that the bill be tabled until we had the opportunity to see that amendment. I support the amendment, and I believe that the other members of the committee had no problems with the amendment.

Senator Bass offered a floor amendment.

5978L

Floor Amendment to HB 1382

Amend the title of the bill by replacing it with the following:

AN ACT

requiring all sellers of property to fully disclose information relative to private water supplies and septic and sewage disposal systems, relative to drainage pools, and exempting homeowners associations from certain registration requirements.

Amend the bill by replacing section 4 with the following:

4 Exemption; Definition of Subdivider. Amend RSA 356-A:1, V to read as follows:

V. "Subdivider" means a person who is an owner of subdivided land or one who offers it for disposition. Any successor of the person referred to in this paragraph who comes to stand in the same relation to the subdivided lands as his predecessor did shall also come within this definition; **provided, however, the term "subdivider" shall not include any homeowners association which is not controlled by a subdivider;**

5 Exemption; Definition of Declarant. Amend RSA 356-B:3, XIII to read as follows:

XIII. "Declarant" means all persons who execute or propose to execute the declaration or on whose behalf the declaration is executed or proposed to be executed. From the time of the recordation of any amendment to the declaration expanding an expandable condominium, all persons who execute that amendment or on whose behalf that amendment is executed shall also come within this definition. Any successors of the persons referred to in this paragraph who come to stand in the same relation to the condominium as their predecessors did shall also come within this definition; **provided, however, this definition shall not include any homeowners association which is not controlled by a declarant.**

6 Effective Date.

I. Sections 1-3 of this act shall take effect January 1, 1993.

II. Sections 4-5 of this act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill requires the seller of real property which includes a building to disclose information relative to the private water supply and the sewage disposal system.

The bill requires an on-site assessment to be included in any purchase and sale agreement for developed waterfront property using a septic disposal system.

This bill allows certain man-made containment areas to be cleaned out to allow drainage.

The bill also exempts homeowners associations from registration requirements for owners of subdivided lands and condominiums.

Floor amendment adopted.

Ordered to third reading.

HB 1104-FN, an act relative to capitalization of the affordable housing fund. Public Affairs committee. Ought to Pass with Amendment. Senator W. King for the committee.

5960L

Amendment to HB 1104-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to capitalization of the affordable housing fund and
relative to the housing finance authority.

Amend the bill by replacing all after section 1 with the following:

2 Purpose. The general court finds that conventional private financing mechanisms may fail to ensure that the state's citizens are able to maintain stable housing arrangements when property values and personal income are declining. The general court further finds that eligible persons and families may require assistance from the state in order to obtain optional financial arrangements from private entities. It is hereby declared that the governor and council, the state treasurer, and the housing finance authority shall be performing a governmental function, advancing a public purpose, and conferring a public benefit in carrying out the provisions of section 3 of this act.

3 New Subdivision; Housing Security Program. Amend RSA 204-C by inserting after section 79 the following new subdivision:

Housing Security Program

204-C:80 Purpose. The purpose of this subdivision is to assist eligible persons and families to obtain private financing necessary to maintain decent, safe, sanitary and affordable housing. It is the intent of the general court that this purpose be achieved through the issuance of guarantees in support of certain home mortgage loans.

I. Upon application from a lender operating in this state in such form as the authority may require, the authority may issue, or commit itself to issue, a certificate of guarantee to the lender, or its assigns, of a principal residence loan. The total principal amount of any principal residence loan guaranteed under this section shall not exceed the sum of:

(a) Ten percent of the fair market value of the principal residence as determined by an independent third-party appraisal commissioned by the lender in connection with approving the loan;

(b) The amount of any payments of principal and interest which are in arrears under the terms of the existing mortgage loan incurred to acquire, construct or substantially improve such principal residence; and

(c) The amount of any local property taxes assessed with respect to such principal residence which have not been paid, and interest chargeable against such delinquent taxes.

II. The state's guarantee of a loan under this section shall be evidenced by a guarantee certificate issued by the authority on behalf of the state. Such guarantee certificate shall contain such terms and conditions as the authority may impose, including, without limitation, restrictions on the use of loan proceeds, provisions for reimbursement of the state if the state is required to honor the guarantee, appropriate financial covenants, and provisions for the establishment of reserves. In addition, as a condition of awarding any guarantee, the state shall be subrogated to all of the rights and security of the lender to the extent it honors the guarantee.

III. The full faith and credit of the state shall be pledged in support of any such guarantee, provided that the aggregate amount of principal residence loans guaranteed under this section shall not exceed \$10,000,000. In satisfaction of that pledge, the state treasurer shall advance to the authority from available cash in the treasury or from proceeds of bonds or notes amounts as may be requested from time to time by the authority to enable it to perform all guarantee obligations punctually and in accordance with their terms. The authority shall request such advances from time to time as additional amounts are required for such purpose.

IV. For the purposes of this section:

(a) "Principal residence" means a residence that is the primary residence of the eligible persons and families and does not include a residence that is used (1) primarily in a trade or business, (2) as an investment property or (3) as a recreational, vacation or second home. The term principal residence does include structures containing not more than 4 residential units, one of which is owner occupied.

(b) "Principal residence loan" means any loan which meets the following requirements:

(1) Repayment of principal and interest on the loan is secured by a first mortgage lien on the borrower's principal residence;

(2) The loan replaces or refinances existing indebtedness which was incurred to acquire, construct or substantially improve the borrower's principal residence; and

(3) The principal amount of the loan does not exceed 100 percent of the median purchase price of an existing single family home located in New Hampshire, as determined by the authority based on statistics periodically published by the federal government.

204-C:82 Guarantee Fund Established. In order to provide additional security to the state for any guarantee made under RSA 204-C:81, there is hereby established a guarantee fund which shall be held by the authority apart from all of its other funds, and which shall be deemed irrevocably pledged to secure all loans guaranteed under RSA 204-C:81. The authority shall be under no obligation to use its own funds for this purpose, and is hereby authorized to deposit moneys appropriated by the general court to support the housing security programs in such fund. If a state guarantee is called upon to be honored the authority shall draw upon such fund for the purpose of honoring such guarantee, and only when amounts in the fund are exhausted shall the state treasurer be required to advance proceeds pursuant to RSA 204-C:81, II, to perform the guarantee obligations. Interest earned on amounts invested in the fund shall be accumulated therein and credited thereto or paid to the authority upon its discretion. If at any time the amount in the fund exceeds 10 percent of the guaranteed portion of the principal of all loans guaranteed under RSA 204-C:81, or such higher amount as may be determined by the authority, the authority may withdraw the excess. The authority may enter into trust agreements, depository agreements, or other arrangements with one or more state banks in order to carry out the purposes of this section.

204-C:84 Programs for Public Purpose; Required Findings. The authority shall not take any action described in RSA 204-C:81 unless it makes the following findings, provided that the authority's board of directors may delegate this responsibility to the authority's executive director:

I. The proposed action will serve a public use and provide a public benefit.

II. The proposed action is within the policy of, and the authority conferred by, this subdivision.

III. In the case of a guarantee to be awarded under RSA 204-C:81, the proposed award of a guarantee will contribute significantly to the ability of a resident of this state to refinance successfully a principal residence loan.

IV. In the case of a loan to be made under RSA 204-C:82, the proposed loan will contribute significantly to the ability of a resident of this state to maintain current housing.

V. Reasonable and appropriate measures have been taken by the borrower to secure funds or assistance other than the guarantee or loan to be provided under RSA 204-C:81 and 204-C:82 and such measures have been unsuccessful.

VI. Reasonable and appropriate measures have been taken to minimize risk of loss to the state and to ensure that any private benefit from the proposed action will be only incidental to the public purpose served thereby.

204-C:85 Rulemaking. Notwithstanding RSA 204-C:53, the authority shall adopt rules under RSA 541-A to implement the provisions of this subdivision. These rules shall include, but not be limited to:

I. Eligibility standards for loan guarantees issued under RSA 204-C:81. Such standards shall include maximum income and asset limits for eligible participants.

II. Eligibility standards for housing assistance loans made under RSA 204-C:82. These standards shall include maximum income and asset limits for eligible borrowers.

III. The conditions and terms of loan guarantees issued and loan made under this subdivision.

IV. Such other matters necessary to implement the provisions of this subdivision.

4 Exemption. The legislature declares that there is an urgent need for the programs created by section 3 of this act. Therefore, notwithstanding any provisions of RSA 541-A to the contrary, the authority may adopt rules to implement the provisions of section 3 of this act pursuant to RSA 204-C:53. The rules authorized by this section shall remain effective until such time as the authority adopts superseding rules under RSA 541-A. The authority shall commence rulemaking under RSA 541-A implementing the provisions of section 3 of this act no later than December 31, 1993.

5 Appropriation; Housing Finance Authority; Housing Security Program. There is hereby appropriated to the housing finance authority the sum of \$1,000,000 for the purpose of enabling the authority to fund the guarantee fund established under RSA 204-C:82.

6 Bonds Authorized. To provide funds for the appropriation made in section 5 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$1,000,000 and for said purpose shall issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A. The payment of principal and interest on the bonds or notes issued under this section shall be made when due from the general funds of the state.

7 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill allows the New Hampshire housing finance authority to allocate fees as matching funds for federal housing programs.

The bill also establishes a program, to be administered by the authority, to guarantee certain home mortgages for low and moderate income persons and families.

SENATOR W. KING: HB 1104 recapitalizes the Affordable Housing Fund. It also has an amendment on this bill that provides for some guarantee in exchange for refinancing peoples mortgages so that they are able to afford to keep their homes. As some of you know, there was a private corporation from the seacoast area that provided about half a million dollars which half of which has gone toward helping prevent foreclosures and saved 300 homes. The idea here, is to do the same on the state level.

SENATOR HEATH: Senator King, would you explain to me how this would work?

SENATOR W. KING: You bet. Is that the end of your question, Senator Heath?

SENATOR HEATH: That is my first question. This ought to lay some premise here. I think that this is very dangerous, why wouldn't I?

SENATOR W. KING: I would be glad to explain it. If you bought a house five years ago, and paid \$100,000 for it, and your mortgage was \$80,000, and you went back to the bank today because your wife had lost her job and your income had diminished, the bank would most likely say to you, that the value of your house has diminished to a point where you are no longer eligible to refinance it. Now, here is your position, you can't refinance your home to lower your monthly mortgage payments so that you can afford to keep your home, instead, you have to lose your home. What this amendment says is that there will be a guarantee of a certain portion of that loan in exchange for the banks willingness to refinance that loan, so that the individual can keep their home.

SENATOR HEATH: Who backed this up?

SENATOR W. KING: Pardon me?

SENATOR HEATH: Where does the money come from when these things fall through?

SENATOR W. KING: The Housing Financing Authority, through the credit of the state of New Hampshire.

SENATOR HEATH: And where does the Housing Finance Authority get its money?

SENATOR W. KING: The Housing Finance Authority, there is not money required, it is a guarantee, it is a contingent liability, much as other contingent liabilities.

SENATOR HEATH: This is a real liability. This isn't, this is like the beginning of the banks scandal, isn't it? Isn't this the first foundation of that kind of a thing where we are going to get into deep trouble?

SENATOR W. KING: No, Senator Heath, it is not.

SENATOR HEATH: It is not?

SENATOR W. KING: No.

SENATOR HEATH: Why when we guarantee these people that are already at a high risk and have already almost run out of resources, when you are guaranteeing that with something that doesn't have the equity left in it that they have already got assessed against them, why isn't that a very high risk thing? And why are we essentially doing this sort of saving and loan thing, and getting into deep doo-doo, early?

SENATOR W. KING: Senator Heath, the fact is that there are people all over the state of New Hampshire who are losing their homes because they cannot refinance the loans. If they were merely able to refinance those loans at a lower rate, they would be able to afford to keep their homes. These are good, decent, hard working people. The fact is, that the real risk to banks, and the real problem in the banking crisis in the state of New Hampshire, was not the average folks in the state of New Hampshire; not the people who would give up eating for two nights during the week in order to pay their mortgage, the real problem was the real high rollers. This bill deals with helping good, solid working people to keep their homes. It seems to me, completely appropriate, given the times, that the state of New Hampshire steps up to the plate and says that we are going to help people keep their homes.

SENATOR HEATH: Senator King, I don't understand how you can put the state at such risk. I understand that most of these people are hard working people that ran into tough circumstances, they are

also people who made some bad judgements. The longest sustained boom in the economy, most of these people bought at the end; and they bought when the value in their buildings that they were buying were speculative value and not real value, and that always comes out in a down turn in the economy. I know that it is a penchant for you Democrats to talk about the high rollers, but there are some pretty ordinary people, the most of us are ordinary people, and most of us contributed to this because of bad policy in the banking crisis end of the economy. How can you not see that this is rolling bad policy on top of bad policy? It might be a bank relief act, you may betray it is a blue collar relief act, the fact is that you are putting your state, our state, the finance of this state, at a huge risk in guaranteeing these loans just *carte blanche*, aren't you?

SENATOR W. KING: That was a long question with a lot of pieces to it, Senator Heath. The short answer to that is, no. The liability that exists on a home cannot be anymore than 100 percent of the market value of that home, so that risk here is very, very minimum, because 100 percent of the market value means that the bank gets its money if they have to foreclose and the state gets its money if they have to foreclose.

SENATOR HUMPHREY: Senator King, this bill authorizes the state treasurer to borrow upon the credit of the state, not exceeding the sum of, strike all of that. The bill says that the full faith and credit of the state shall be pledged in support of any guarantee provided the amount of principal residence loans guaranteed under this section shall not exceed \$10,000,000. Does that mean that the state is permitted to underwrite borrowing up to the limit of \$10,000,000?

SENATOR W. KING: Underwrite refinancing up to the limit of \$10,000,000.

SENATOR HUMPHREY: So the state ultimately in the worse circumstances, would be liable for \$10,000,000?

SENATOR W. KING: That is correct, in a worse case scenario.

SENATOR HUMPHREY: Alright, then the purpose of the bill is to encourage bankers to refinance loans for people who are finding their payments oppressive?

SENATOR W. KING: It is to make it possible for banks to refinance loans. Under current, not only current law, but in the current market, most loans are sold on a secondary market. In order for them to be sold on a secondary market, the bank is required to maintain a certain loan at the value ratio. If that loan to value ratio is not correct when an individual comes in to refinance their home, they are

told that they cannot refinance even though they might be able to lower their monthly payments \$200 a month so that they can afford to keep their home.

SENATOR HUMPHREY: Then going on to the next page, 27 of the calendar, it says that section six, to provide funds for the appropriation made in section five, the state treasury is hereby authorized to borrow funds and credit of the state not exceeding the sum of \$1,000,000. So right away, the state treasurer is authorized to borrow \$1,000,000 for this program.

SENATOR W. KING: Right.

SENATOR HUMPHREY: Does the Senator know what I will preface my question by saying that I do not know, and I doubt that a single Senator knows. Unfortunately, by how much, by what amount that we have increased the indebtedness of this state, a and b, by the amount we have pledged the state to underwrite to guarantee obligations of other entities, so far this year. Does the Senator know that, I don't?

SENATOR W. KING: Senator Humphrey, the answer is that none of us will know the answer to that until the Senate adjourns Sine die.

SENATOR HUMPHREY: So far this year, was my question?

SENATOR W. KING: Well, the answer to that is still the same, because ultimately most of the expenditures that will be made will end up in a Committee of Conference, on the budget or in other Committees of Conference that will be related to the budget, and we are going to have to make some determinations about priorities. It may be in fact, that some of the things that have passed out of this body will not ultimately be passed into law; even though they passed both bodies, because we don't have the appropriate bonding authority to do that.

SENATOR BASS: Mr. President, I rise in support of the committee report of ought to pass as amended. However, I would like to temper that support with some observations. I think that Senator King's proposal is a noble one. It is timely; and it may be the right thing to do, especially given the fact that there are so many homeowners who are in this pinch of value to loan that it may do an awful lot to help us avoid the downward of upward or however you want to have it, spiral of foreclosures. It is true as Senator King said, there is a winner here and those are the homeowners who are in trouble. But there is also another winner here, and a big winner and those are the first lienholders. The first lienholders are the lending institutions. I have asked repeatedly in the course of the debate of this bill, what the first lienholders are willing to contribute in return for a situation

which removes an otherwise classified loan that might be foreclosed from that list? The answer has been, nothing. We won't contribute anything. In fact, there is a million dollar appropriation here, which is 10 percent of the loan guarantee authority that the state is going to put up, the banks are going to have a lot more security now because they are going to have a loan guarantee, and what are they going to contribute to this? The answer is zero. I think that this Senate ought to amend this appropriation to say that the first lienholder should contribute to the Housing Finance Authority, an amount equal to 10 percent of the amount of the loan guaranteed, which in effect would reduce the appropriation to zero and thereby really make this a shared partnership so that there would be two winners, the homeowners and the banks, and not just have it one where it is the banks and the homeowners, secondarily.

SENATOR HUMPHREY: First I would like to commend Senator Bass for his perceptive analysis of the bill. This is a bill that the bankers are going to love. I can't imagine a greater incentive for bankers to get tough on those who are in arrears on their mortgage payments than a certain knowledge that they can be subsidized by the state government if they move to foreclose. The person will then seek to refinance and the banks will apply for this wonderful, generous program, let us call it bankers welfare. I think that it will encourage, not discourage, I think that it will make things worse. You will give bankers the incentive to foreclose on mortgages, on borrowers, homeowners who are in arrears on their payments, knowing that the alternative to foreclosure is to renegotiate or to refinance in which they will get subsidized by the state. They will be protected by the state. It makes very little sense from a basic economic point of view and it makes no sense from the point of view of relieving people, homeowners, and people hard-pressed with their mortgages, this is going to make things worse. Mr. President, in a question, I addressed the matter of this endless bonding, this endless borrowing, willy-nilly. Here we go again, there isn't one of us, maybe Senator Blaisdell knows, but he is not volunteering the information if he does, who know how much we have at least authorized what increase of borrowing and indebtedness and loan guarantees that we have authorized, it is true what Senator King points out, we don't know until the end of the session when we find out what is enacted and what isn't. But we at least keep track of what we have authorized, what we support, it wouldn't hurt if we had a graph right up there in the front of the room that is updated every time that we pass one of these things, to show how much we have raised the indebtedness of this state. We are operating without any restraints whatever, it seems to me. We don't even know how deeply in debt we are, how

can we possibly make judgements about whether this bill is prudent or the next one is prudent which increases the debt? This state is bankrupt and it is bankrupt because of the General Court. No money can be spent without authorization by the General Court and we are in this mess because of us. It is time to stop it. You have to draw the line somewhere unless you are prepared to sacrifice the future of our children. To some extent, it is already too late. That debt burden has to be paid, it has to be borne. That means that government debt, commandeer and ever larger piece of the capital that we create through our productivity. That means that there is less money available to the private sectors to create jobs, which are the real means to increasing the well-being of our people. We have to draw the line somewhere, and when we do, it will not be easy. But we have to draw it, and I suggest that we start here. Let the bankers deal with the problems that they caused, let the economy work the way that it is suppose to work. Every time that you interject the government into the economy, you create disincentives and misincentives and perturbations, the net of which is that people are less well-off, rather than better-off. I urge the members to defeat this bill.

SENATOR J. KING: Senator Humphrey, there has been a lot of foreclosures in the past year or two years or three years. Where does the money come from when the mortgages that were foreclosed on them? The bank took them over and probably sold or whatever happened to them, but where did the money come from before it went to the bank, where did the money originally come from?

SENATOR HUMPHREY: I am not really sure of your question, Senator, but I will reply in this way: The government cannot remedy every problem, because when it tries to remedy every problem it creates more problems than it solves. We would have a prosperous economy today with people able to make their mortgage payments if we did not have so much public debt and so many restraints to creating jobs, which are the only, and increasing productivity, which are the only avenues to improve the well-being of our people. I am saying that this will, like so many other remedies, so called remedies, this will create more problems than it solves.

SENATOR J. KING: Do you believe that if this situation that is being proposed today was in effect three years ago, that some of the class for the large class would have been handled in a different manner where the person could have kept their things and the federal government would have spent less money getting involved, and many more banks would still be in operation. Do you agree with that?

SENATOR HUMPHREY: Well, Senator, it would have taken far, far, far more than \$10,000,000 to do that and in any event, this as I pointed out, this is going to send a message to bankers, that if somebody is in arrears, threatened to foreclosure, the person comes running to the bank, saying, please let me refinance, and the bankers will say, sure why not, the state is going to subsidize the whole operation and we can't lose on the part the state guarantees. That is going to give bankers the incentive to press on people who are in arrears.

SENATOR HEATH: I have a question for the Southern Senator King. Senator King, I thought the thrust of your question was, who was paying for the losses today?

SENATOR J. KING: That was the first one.

SENATOR HEATH: I think that your answer that you were trying to elicit is the federal government, the taxpayers?

SENATOR J. KING: The taxpayers.

SENATOR HEATH: I have to build this premise in order to ask you this question. Is it not just the taxpayers, but also the stockholders in the banks that lost their behind in the process? Are those people not also adding into paying for that, the stockholders at the bank?

SENATOR J. KING: Definitely, that is for sure.

SENATOR HEATH: If that is the case, if it is a combination of federal taxpayers and private stockholders that are biting the big one on this loss, why would it be wise, in the state that has the highest level of bankruptcy, just for a pure selfish motive, why would it be wise for the taxpayers of New Hampshire to disproportionately assume what private individuals who wrongly invested in banks when banks were making bad decisions and federal taxpayers who are disproportionately helping us because we have the highest bankruptcy, why would we want to take that help away by putting ourselves at great risk if it was just for the simple selfishness of the state? Why would we want to do that against ourselves?

SENATOR J. KING: I am not quite sure if I got your question, but basically, this is, what he is proposing, I believe, is very similar to what the SBA is doing for the small business people to keep them alive today instead of having them close down. This would be the same thing for the individual homeowner. They are not buying the house, they are not foreclosing it, they are just lowering the thing temporarily, and they are getting help from the source; and then eventually, they will still get their money back.

SENATOR HEATH: What do you envision is going to change about the people that are at high risk? Presently, in their private lives, it's going to allow them to suddenly be good risk in this new venture? Just the element of time?

SENATOR J. KING: The whole economy we are living in today is based on the element of time. And the foreclosures, there are as many foreclosures today, probably as there was a year ago. It doesn't improve the system. Once you get a foreclosure, you have an empty building or somebody comes in and buys the place at half of what it is worth originally; therefore, the neighbor is paying a mortgage that they can't afford and this person can rent it for half the price that the person who is paying a similar mortgage to it, is also renting. So it impounds it. So if we can stop that thing from getting out of hand by doing something like this, then it starts to level off and then you can get back to normalcy again.

SENATOR HEATH: Is this new-deal-notion, if it were to pass, and if you knew that it was going to put the bond rating of the state of New Hampshire at risk, and we were going to have to pay sort of doubly by paying a much increased interest rate because of the lowered bond rating, would you still support this?

SENATOR J. KING: A new deal? I would imagine that you were thinking about the FDI when you mentioned the deal. If the foresight that was used by the FDI 40 or 50 years ago, you have gone one step further and handled the situation. You take today, if there wasn't social security, if there wasn't unemployment compensation, if there wasn't housing for the elderly, what would those people be doing today? We would be in a deeper depression than we were in 1932. So definitely . . .

SENATOR HEATH: If that was a question, Mr. President, I would like to respond to that. It seemed like a question to me.

SENATOR J. KING: No. It was an answer, Senator.

SENATOR HEATH: If the second World War hadn't come along, we would still be in the depression if we were dependent on Roosevelt's policies.

SENATOR J. KING: The second World War had nothing to do with social security or unemployment compensation.

SENATOR SHAHEEN: I got a letter from a woman in Merrimack recently, and she told me that she happens to be a single parent and she is recently divorced, she has a good job, a good credit rating, but now because she is divorced, she can no longer afford the payments on her house. She went to the bank to try and rewrite the mortgage

under the new interest rates, and she couldn't do that, because she couldn't come up with the money to cover the investment in the house. That is the kind of person that this bill would help. It is also the kind of person who if she can save \$200 or \$300 on her mortgage is going to be able to put that money back into the economy. It is going to save her home, it is going to benefit the bank, and it is going to put more money into the economy. The last time that I knew, government was not meant to be a business, government is not suppose to be a business, we are not suppose to be run like one, we are suppose to be here to benefit the people of New Hampshire. I think that's what we ought to be doing, and this is the kind of program that's going to do that.

SENATOR HUMPHREY: Senator, to make a point of business, TAPE INAUDIBLE.

SENATOR SHAHEEN: No, Senator Humphrey, and I think that we need to look at what is going to happen, but all of the analysis that I have seen from the people that we hire within the state to look at our contingent debt, say that while we don't want to continue to spend indefinitely or continue to increase the amount of state guarantee that is made available indefinitely. At this point, we have not gone beyond our limit, that that is not an issue that is going to affect the state's bond rating. You were saying that we don't know how much we are talking about borrowing, there are in fact charts that are available; I have seen a presentation on at least three occasions in the last two weeks where they have outlined that. I would be happy to go and get the charts and show them to you. I am sure that we could ask Charlie Connor to come up here and do it for us. So somebody is paying attention to that. But I don't think passing this piece of legislation is going to put us over the edge, based on those presentations.

SENATOR ST. JEAN: I won't be voting on this piece of legislation, but I thought that I would offer my views. I think that the legislation is heading in the right direction. I think that it is well intended, but Senator Bass, I think, spoke very eloquently of what needs to be done. I think, that if we are going to float these bonds, I think that those beneficiaries, meaning the various banks in this state, ought to take a little bite of what is going on here. By way of background, the foreclosures that I have done, thousands of them in recent years, 90 percent of the foreclosure work that I have done, the loans were written from 1985 through probably the last couple of years. Senator King alluded to the fact that these are good blue collar individuals who went out and bought properties. Yes, in some instances they were, but more often than not, people bought in the mid 80's. They

bought as a speculative adventure that they were going to make money. And you know in the free market environment there are two sides; yes, you can make some money and you can also lose some money. To think that in this environment somehow, the taxpayers are going to float these bonds and have no risk on the other side, I think, is wrong. I really do. I think that banks ought to pick up a little bit of this either through points or what Senator Bass had suggested. I mean the last big debate that we had around this body was interstate banking, and that is one vote that I regret. I think that more safeguard should have been put into place at that time and perhaps the banking crisis would not have flowed as quickly as it did. I would caution you in passing this well intended legislation, that I think, there should be some safeguards. Senator Bass's amendment or proposed amendment, I think, may be a safeguard that we, as a body, ought to consider. I would urge you to do that before one votes passage of this piece of legislation.

SENATOR PODLES: Senator St. Jean, do you believe that private sector should also come into this?

SENATOR ST. JEAN: The private sector? How so, Senator?

SENATOR PODLES: We were told in committee that there was somebody who appropriated \$500,000 to help out people with their mortgage. That was one business, why couldn't others do that?

SENATOR ST. JEAN: Yeah, I think that is probably a pretty good suggestion, Senator.

SENATOR BLAISDELL: Senator Wayne King, did you sit with me yesterday and listen to the Governor say to us, "that we had the highest AFDC enrollments in the country and that Florida was next"?

SENATOR W. KING: Yes.

SENATOR BLAISDELL: Who pays for that, who is going to pay for that?

SENATOR W. KING: We are.

SENATOR BLAISDELL: You are, right. The state of New Hampshire. Would your bill help that person who maybe could get some help and maybe get back onto their feet? Would this bill help them?

SENATOR W. KING: Absolutely, Senator Blaisdell. This applies only to primary homes in which people live. This is not speculative investments as Senator St. Jean suggested, this is only peoples homes, and it is only to the homes that are of average price of the loan.

SENATOR BLAISDELL: Two nights ago, I received a call, Senator King, from a man who is nine months behind in his mortgage, his lights have been turned off in his house and he just got himself a job, he just got back to work. Would this type of bill maybe give him some help to keep his children who have asthma, who may be getting worse, would that help him?

SENATOR W. KING: It is possible that this would help him keep his home.

SENATOR BLAISDELL: Do you feel that maybe we should be looking at bills like yours rather than the federal government and somethings in the state of New Hampshire, you know, why loons right wings aren't as big as the one on the left hand side, we got that in Washington. Whether or not a dwarf ring muscle is coming from Swanzey, New Hampshire down to Bretton Woods Golf Course, or whether or not a snail takes more than one day to get across the street and it shouldn't. Should we be looking at bills like this that would help the people of our state and forget about the foolishness that we have in Washington and in this state?

SENATOR W. KING: Senator Blaisdell, the answer to that is yes; however, I would also add that the small risk that is involved in trying to help people keep their homes, is a far less risk than the risk of what it will cost us if those people are out on the streets.

SENATOR BASS: Mr. President, I appreciate the opportunity to speak. I am uncustomarily bouyed by the interest of Senator St. Jean and some of my other colleagues in attempting to work out some sort of a compromise with respect to the funding of this proposal. I would hope that there might be some interest in possibly drawing up an amendment in that respect, Mr. President.

LAID ON THE TABLE

Senator Humphrey moved to have HB 1104-FN an act relative to capitalization of the affordable housing fund laid on the table.

Question is to have HB 1104 laid on the table.

A roll call was requested by Senator Humphrey.

Seconded by Senator Heath.

The following Senators voted Yes: Heath, Fraser, Currier, Roberge, Bass, Pressly, Nelson, Colantuono, Podles, Humphrey, Russman, Delahunty.

The following Senators voted No: Oleson, W. King, Hough, Disnard, Blaisdell, McLane, J. King, Shaheen, Hollingworth, Cohen.

Senator St. Jean (Rule #42).

Yeas 12

Nays 10

HB 1104 is laid on the table.

HB 1332, an act removing the prohibition on use or possession of tobacco products by minors. Public Institutions, Health and Human Services committee. Ought to Pass. Senator McLane for the committee.

Senator J. KING: I would like to defer to Senator McLane who has prepared to deliver this.

SENATOR MCLANE: We have a floor amendment. The motion was ought to pass with amendment, but the amendment didn't make the calendar. It is a committee amendment, but it didn't make the calendar.

SENATOR DELAHUNTY (In the Chair): Do you want to speak to the committee amendment?

SENATOR MCLANE: I want to speak to the committee amendment which is the floor amendment.

SENATOR DELAHUNTY (In the Chair): Senator McLane, the committee report is ought to pass. We must first deal with the ought to pass motion before we can go on with the floor amendment. So why don't you first speak to the committees motion of ought to pass.

SENATOR MCLANE: I am not speaking to the amendment?

SENATOR DELAHUNTY (In the Chair): No, not yet. You must first speak on the committees report of ought to pass.

SENATOR MCLANE: I have very little to say about the bill. I am happy to have these two young people here to view this speech today, and I am very sorry that all of my 11 grandchildren couldn't be here as well. I have offered each one of them \$100 if they don't smoke until they are 21, and they are already counting up and spending their money. But I can do that with my own family. In view of the opposition to housing bills, I don't think that a proposal to offer each child in New Hampshire \$100 would be passed by this body, but it would be economic. I asked my young granddaughter from Jackson, to read the material that was given to us by the New Hampshire Medical Society, and she underlined those things that she found interesting. I will tell you two of them: she found it interesting that 3 million American children under 18 years of age, consume 947 mil-

lion packs of cigarettes and 26 million containers of smokeless tobacco yearly. She also found it interesting that according to this survey that 20.8 percent of high school seniors, had at one time initiated daily cigarette use. Then it goes on to tell how many cigarettes that they smoked, which is 16.0 cigarettes a day. This is a national health problem. We must do something to solve it. Last session we passed a bill in the fading hours which made it a felony. The threat was that these children would then become CHINS, and become part of the judicial system. The amendment that you have before you clarifies the law, but it does not change it. I tell you sincerely, that if you care about the children of New Hampshire today, that we have fixed the problems with the bill and we should not listen to the tobacco industry which has tried again and again, to defeat this amendment. I stand by what it says, and I stand by the possibility that other states, 41 other states, have similar laws about young people and smoking. There is no reason why we cannot enforce this law and make it work for what it means to our children.

Senator McLane offered a floor amendment.

5970L

Floor Amendment to HB 1332

Amend the title of the bill by replacing it with the following:

AN ACT

relative to the penalties for purchase, use
or possession of tobacco products and
children in need of services.

Amend the bill by replacing all after the enacting clause with the following:

1 Tobacco Products; Technical Changes. Amend RSA 78:12-b, II to read as follows:

II.(a) No person shall sell tobacco products or distribute promotional samples of any tobacco product to a person under 18 years of age.

(b) No person under 18 years of age shall purchase, use, or possess tobacco products.

(c) The [prohibition] **prohibitions** established by this paragraph shall not be deemed to prohibit persons under the age of 18 years employed by any manufacturer, wholesaler, sub-jobber, vending machine operator, or retailer from performing the necessary handling of tobacco products during the duration of their employment.

2 Children in Need of Services; Exception Added. Amend RSA 169-D:2, IV(c) to read as follows:

(c) A child who has committed an offense which, if committed by an adult, would be a violation under the criminal code of this state; or has committed an offense which, if committed by a person 16 years of age or older, would be a violation under the motor vehicle code of this state; or has violated an ordinance or bylaw of a city or town; **provided, that "child in need of services" shall not mean a child who has committed an offense under RSA 78:12-b.**

3 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill exempts persons who purchase tobacco products in violation of RSA 78:12-b from the definition of "children in need of services."

SENATOR HUMPHREY: I want to commend Senator McLane, not only for what she said, but the emphasis and the feeling with which she said it.

SENATOR CURRIER: This amendment was brought in as a committee amendment originally, and it was to deal with . . . the original bill repealed what we did last year with regard to making possession of tobacco products illegal. The problems that arose after the implementation of that law and that legislation with police departments, became very prevalent, predominant and this amendment basically tries to deal with part of the problem in relation to that, and that is the CHINS aspect of the bill. So that we are exempting the CHINS legislation from this in terms of the prosecution so that the CHINS legislation doesn't kick in with regard to the possession of tobacco products. It beats the total repeal of the legislation that we passed last time. I think that it would be sending a very bad message to the citizens of the state of New Hampshire, if in fact we, after proposing this piece of legislation last year, and passing it, repealed it the following year without trying to make some kind of a compromise dealing with the specific problems that it has been alluded to by our local law enforcement community. This amendment attempts to do that by exempting that violation from the CHINS statute. That is basically all that it does. There will in fact be a Committee of Conference on this because there are some House members that feel very adamant that we should just repeal the total bill. I and Susan McLane and others, don't feel that to be the case, but we would like to deal . . . go to the Committee of Conference in terms of the form of strength to try to work out some type of compromise with regard to the prohibition of smoking materials.

Floor amendment adopted.

Ordered to third reading.

CACR 6, an act relating to taxation of business income and revenue, providing that taxes of any type may be imposed on the income or revenue of businesses. Ways and Means committee. Inexpedient to Legislate. Senator McLane for the committee.

SENATOR MCLANE: I guess I could give you a nice long speech about the tax structure about the state of New Hampshire. Twenty-two years ago, I ran for the legislature because there weren't enough sheets on the beds at the State Hospital for the 2,700 people that were there. I thought, straight out of the league of Women Voters, that I was going to change the tax structure of the state of New Hampshire, and I have tried for 22 years, and I have not accomplished that. But I will tell you one thing that I am not going to do, I am not going to take a business profits tax and try and turn it into a lousy income tax. If we want people to pay according to their means, and to pay according to the amount of money that they have, which I happen to think is a very basic point, we are not going to do it by so-called, getting the real estate agents and the doctors and the lawyers, we are going to do it, and the accountants, we are going to do it by passing a tax which says that the more money that you have, the more money that you pay. There is a very graphic graph of the difference between the Vermont tax structure and ours. The more money that you have in Vermont, the more tax that you pay. In New Hampshire, if you earn less than \$14,000 you pay 17.9 percent of your income in state fees and taxes. If you earn \$200,000 you pay less than 3 percent. So it is the absolute opposite, one to the other, from Vermont. It is wrong, it is stupid, and we cannot fix it with CACR 6.

SENATOR COLANTUONO: I just want to say that I was the one lonely member of Ways and Means committee who wanted to do something with this bill, although I didn't agree with the way that it came over from the House either; because it was way too broad, it would have allowed any type of business tax to come in. I wanted to craft an amendment which would simply say that under the business profits tax, you could make deductions under the constitution, and to get around those old court cases that we have however, no one else agreed with me, so it didn't go forward. I did want to say that I would support a more narrow amendment to the Constitution. I think that the House made a mistake sending it over to us the way that they did and, unfortunately, the bill is going to die for another year and we are never going to get the business profits tax reformed that we need.

Question is on the committee's motion of inexpedient to legislate.

A roll call was requested by Senator Humphrey.

Seconded by Senator Blaisdell.

The following Senators voted Yes: Heath, Fraser, Hough, Dupont, Currier, Disnard, Roberge, Blaisdell, Bass, Pressly, Nelson, Colantuono, McLane, Podles, Humphrey, J. King, Russman, St. Jean, Shaheen, Delahunty, Hollingworth, Cohen.

The following Senators voted No: Oleson, W. King.

Yeas 22

Nays 2

Committee report of inexpedient to legislate is adopted.

Recess.

Out of recess.

RECONSIDERATION

Senator Hough having voted with the prevailing side moved reconsideration on CACR 6, an act relating to taxation of business income and revenue. providing that taxes of any type may be imposed on the income or revenue of businesses.

Adopted.

Question is on inexpedient to legislate.

A roll call was requested by Senator Humphrey.

Seconded by Senator Blaisdell.

The following Senators voted Yes: Oleson, W. King, Heath, Fraser, Hough, Dupont, Currier, Disnard, Roberge, Blaisdell, Bass, Pressly, Nelson, Colantuono, McLane, Podles, Humphrey, J. King, Russman, St. Jean, Shaheen, Delahunty, Hollingworth, Cohen.

The following Senators voted No:

Yeas 24

Nays 0

CACR 6 is inexpedient to legislate.

Recess.

Senator Dupont in the Chair.

HB 1255-FN, an act relative to the number of big bingo games charitable organizations may conduct and increasing the one game date prize total value from \$3,500 to \$14,000. Ways and Means committee. Ought to Pass with Amendment. Senator J. King for the committee.

5964L

Amendment to HB 1255-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to the amount of the lucky 7
annual distributor license
fee and bond amount.

Amend the bill by replacing all after the enacting clause with the following:

1 Distributors of Lucky 7 Tickets; License Fee Decreased. Amend RSA 287-E:23, I to read as follows:

I. The applicant for a distributor's license shall pay to the commission an annual license or license renewal fee of \$10,000, **except that any applicant whose net receipts for the preceding fiscal year totaled less than \$30,000 shall pay to the commission an annual license or license renewal fee of \$2,500.** Such fee shall authorize the distribution of lucky 7 or similar break-open tickets within the state of New Hampshire and the warehousing of lucky 7 or similar break-open tickets for subsequent sale out of state.

2 Distributors of Lucky 7 Tickets; Bond Amount Decreased. Amend RSA 287-E:23, III to read as follows:

III. Each licensee shall post a bond in the amount of \$50,000 conditioned upon the licensee's compliance with the rules of the commission, **except that any licensee whose net receipts for the preceding fiscal year totaled less than \$30,000 shall post a bond in the amount of \$10,000 conditioned upon the licensee's compliance with the rules of the commission.**

3 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill decreases from \$10,000 to \$2,500 the lucky 7 tickets distributor's fee where the distributor's gross receipts for the preceding fiscal year are less than \$30,000. This bill also decreases the bond amount for lucky 7 ticket licensees from \$50,000 to \$10,000 under the same circumstances.

LAI D ON THE TABLE

Senator J. King moved to have HB 1255-FN an act relative to the number of big bingo games charitable organizations may conduct and increasing the one game date prize total value from \$3,500 to \$14,000 laid on the table.

Adopted.

HB 1255-FN an act relative to the number of big bingo games charitable organizations may conduct and increasing the one game date prize total value from \$3,500 to \$14,000.

HB 1255-FN is laid on the table.

HB 1491-FN-L, an act requiring professional fundraisers for police, law enforcement and firefighters' associations to register with and be regulated by the department of justice, increasing the amount of the registration fee, solicitation fee and bond, and making technical amendments to the registration law. Judiciary committee. Ought to Pass. Senator Hollingworth for the committee.

SENATOR HOLLINGWORTH: I would like to defer to Senator Colantuono.

SENATOR COLANTUONO: This bill takes professional fundraisers for police, law enforcement or firefighters associations, and requires them to register with the Attorney General's Office as solicitors similar to other professional solicitors. Right now they are not covered. The need for the bill was caused by very misleading solicitations by persons who claim to be representing police or fire organizations when they really weren't. The bill also increases the amount of the registration fee to \$200; the amount of the bond that has to be posted by solicitors to \$20,000; and the amount that has to be paid with the solicitation notice to a fee of \$75. There was strong testimony in favor, and very little opposition to the bill in the committee. I urge ought to pass. I have a floor amendment that the committee will offer also.

SENATOR HOLLINGWORTH: Senator Colantuono, isn't it true that the FN local is not going to effect this bill? What it actually does, we have the amended version, and what it says is: that the Department of Justice indicates that this bill, if amended by the House, will increase state revenues by \$14,750 annually? And the increased state expenditures are of an undetermined amount? There will be no impact on county and local revenues in this expenditure, so that the local is no longer really affected on this bill?

SENATOR COLANTUONO: That is correct, Senator.

SENATOR DUPONT (In the Chair): There has been an amended fiscal note passed out for your information. I believe that everyone should have that.

SENATOR COLANTUONO: Senate Judiciary Chairman, Senator Podles is the piece that this body passed onto the court consolidation bill, relative to the Pelham Municipal Court. Senator Podles requested that this piece be amended onto this bill, to go back to the House to try for concurrence as opposed to try and work it out through the Committee of Conference on the court consolidation bill. It is a piece that is very important to my district. I would be happy to go through the merits if anyone cares to ask, but we have already passed this piece in this body.

Senator Colantuono offered a floor amendment.

5983L

Floor Amendment to HB 1491-FN-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT

requiring professional fundraisers for police, law enforcement and firefighters' associations to register with and be regulated by the department of justice, increasing the amount of the registration fee, solicitation fee and bond, and making technical amendments to the registration law, and relative to the special justice of the Pelham municipal court.

Amend the bill by replacing section 5 with the following:

5 Special Justice; Pelham Municipal Court. Amend 1987, 80:1 to read as follows:

80:1 Special Justice; Pelham Municipal Court. Upon the occurrence of a vacancy in the office of the justice of the Pelham municipal court, the special justice of the Pelham municipal court shall continue in office as a special justice of the [Nashua] **Salem** district court[, as authorized by RSA 502-A:3,] and shall hold sessions in Pelham [as authorized by RSA 502-A:3] **not less than one day per week, notwithstanding the provisions of RSA 502-A:2.**

6 Effective Date.

I. Section 5 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect July 1, 1992.

AMENDED ANALYSIS

This bill requires professional fundraisers for police, law enforcement and firefighters associations to register with and be regulated by the director of charitable trusts, department of justice. The bill increases the registration fee, solicitation fee and bond to be paid by professional fundraisers. The bill makes certain technical amendments to the registration law required by recent United States Supreme Court decisions.

The bill also establishes criminal penalties for violation of the laws regulating professional fundraisers.

The bill allows the special justice of the Pelham municipal court to continue in office as a special justice of the Salem district court, holding sessions not less than one day per week in Pelham.

Floor amendment adopted.

Ordered to third reading.

HB 497, an act relative to an equipment challenge grant program for vocational and technical education programs. Finance committee. Ought to Pass with Amendment. Senator Hough for the committee.

5967L

Amendment to HB 497-FN-A

Amend the title of the bill by replacing it with the following:

AN ACT

relative to an equipment challenge grant program for vocational and technical education programs, establishing an equipment challenge fund, making a bonded appropriation therefor, and establishing a pilot applied technology center and making a bonded appropriation therefor.

Amend the bill by replacing all after section 2 with the following:

3 Appropriation. The sum of \$500,000 is hereby appropriated for the fiscal year ending June 30, 1993, to the department of postsecondary technical education's equipment challenge fund for the purposes of section 2 of this act. This sum shall be in addition to any other funds appropriated to the department of postsecondary technical education.

4 Bonds. To provide funds for the appropriation in section 3 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$500,000 and for said

purposes may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. The bonds shall be 10-year bonds.

5 Principal and Interest. The payment of principal and interest of the bonds and notes issued under section 4 of this act shall be a charge against the general fund.

6 Pilot Applied Technology Center Established. There is hereby established a pilot center for applied technology at the New Hampshire Technical College in Nashua. Any funds appropriated shall be for the costs of establishing the program. The objectives of the program shall be to:

I. Retain industry and increase jobs.

II. Establish a statewide network of technical colleges responsive to the needs of industry in advanced technologies.

III. Deliver a broad range of training services for new and displaced workers and to upgrade the skills of existing employees.

IV. Provide hands-on training and practical application of off-the-shelf technologies.

7 Appropriation. The sum of \$500,000 is hereby appropriated for the fiscal year ending June 30, 1993, to the department of postsecondary technical education for the creation of an applied technology center as provided in section 6 of this act. This sum shall be in addition to any other funds appropriated to the department of postsecondary technical education.

8 Bonds. To provide funds for the appropriation in section 7 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$500,000 and for said purposes may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. The bonds shall be 10-year bonds.

9 Principal and Interest. The payment of principal and interest of the bonds and notes issued under section 8 of this act shall be a charge against the general fund.

10 Effective Date. This act shall take effect July 1, 1992.

AMENDED ANALYSIS

This bill creates a steering committee which shall be responsible for directing and developing an equipment challenge grant program for vocational and technical education programs.

The committee shall focus on establishing the following 3 programs: a program for a vocational-technical resource collaborative, a program for educational administrators training initiative, and an instructional equipment needs challenge grant program.

The steering committee shall submit a report no later than October 1, of each subsequent biennium. The report shall include the committee's progress in the establishment of the 3 programs outlined and recommendations for their continued development.

This bill also establishes a legislative oversight committee to review the annual accounting report of the steering committee.

This bill establishes an equipment challenge fund and makes a bonded appropriation to the department of postsecondary technical education's equipment challenge fund for the purposes of the program.

This bill also establishes a pilot applied technology center at the New Hampshire technical college in Nashua and makes a bonded appropriation to the department of postsecondary technical education for the purposes of the program.

SENATOR HOUGH: The committee report is ought to pass with amendment on HB 497 as reported by the committee on Finance. You will find as the President has indicated, in the supplemental calendar, the amendment establishes the financing for the equipment challenge grant program. This is a subject that has been before us for the last couple of sessions. It is an initiative that was brought forward by Senator Dupont and a number of other Senators who were concerned with the vocational, both educational institutions, both the postsecondary and the area school. It will allow for the necessary high technical equipment to be put in place with the cooperation of industry so that we can train, cross train, and re-train our working populous to meet the changing demands of a highly technological age. This fund mechanism is necessary if we are to accomplish the policy that we have set out in establishing both the secondary and postsecondary vocation technical institutes in the state. Further, it also recognizes a special initiative in applied technology in Nashua. The Nashua facility is of critical importance to the changing economic times in the Southern tier of the state of New Hampshire, in light of the 128 layoffs. And it is very important that we put in place the skills so that our population can adjust to the changes in the de-emphasis on the defense industry and the maturing of the computer industry.

SENATOR HUMPHREY: Senator Hough, I note the committee in its' amendment has increased the appropriation from one dollar to \$500,000 and where are we going to get that money?

SENATOR HOUGH: The answer to your question, Senator Humphrey, is that we are going to bond the challenge grant fund to be matched by contributions from industry. The answer that you have received from Senator Dupont, earlier in the day, would also be con-

sistent with the answer to this. Clearly we have a specific educational need in regard to the populous in this state of New Hampshire, both to the youngsters in high school and in the postsecondary education field and it is consistent with the public policy of being proactive in terms of creating the skills for New Hampshire people to meet the changing job markets. That is the answer. That is not the answer that is satisfactory to you, but that is the answer that you must accept, because that is the answer that the committee has brought forward, and it will be affirmed by this body.

SENATOR HUMPHREY: I withdraw the request to be recognized for the purpose of asking a question. I would like to be recognized in due course, to speak.

SENATOR DUPONT (In the Chair): Go ahead, Senator Humphrey.

SENATOR HUMPHREY: I don't accept it, Senator Hough, and I don't have to accept it. I find your arrogance odious. It is odious arrogance. But you are probably right.

SENATOR HOUGH: I accept that.

SENATOR DUPONT (In the Chair): I would ask the gentlemen to refrain from personal remarks and speak to the issue, Senator Humphrey.

SENATOR HUMPHREY: But you are probably right, Senator Hough, because this body has shown no discipline whatsoever in fiscal matters. It has voted willy-nilly. I don't recall one instance where we rejected one bonding bill this year. Here we go again. We are going to borrow it is the answer. How come this wasn't included in the budget? If it is so important, why is it being added on at the tail end?

SENATOR HOUGH: Mr. President, I would like to speak for the first time. I delivered the committee report and I would now like to speak, not on behalf of the committee, but in support of the committee's amendment. I do that not to be confrontational with my good friend and colleague, Senator Humphrey, but to the extent that his remarks were specifically directed at me, I will accept them. I will acknowledge them, and the difference between the point of view of Senator Humphrey and Senator Hough, should be well recognized. It doesn't matter whether or not I happen to be on the prevailing side or not, this body has spoken clearly in terms of economic development, they have spoken clearly in terms of being proactive about helping the citizenry of the state of New Hampshire meet the challenges before us. There comes a time when the question shouldn't be asked whether or not we can afford to, but more importantly, the question should be asked, can we afford not to?

SENATOR DISNARD: Senator Hough, I am in support of this, but I have a different viewpoint, and I hope that you don't smile. If this is passed, this is going to save the state money. When these vocational skill centers and technical colleges were established, they were fully funded and paid for, a turnkey operation by the state. Now, some of these are 15 or more years older and their equipment is outmoded, and the equipment needs to be replaced. The technical advances have made them obsolete. Now instead of asking the state to replace them, we are saying to industry or anyone who wishes to assist: would you help us with a challenge grant to assist? A pool of money would be established. Now this bill was changed in the Senate, different from the House. The pool of money would be established and the guidelines so that the poor communities would also receive some of this money. The bill as it came over from the House, the wealthy districts would get richer and the poor areas would get poorer. So I think that you may be able to look at this with another viewpoint, we are saving the state money.

Committee amendment adopted.

Ordered to third reading.

HB 1366-FN, an act relative to adopting the state operating budget in the second year of the legislative session. Finance committee. Ought to Pass. Senator Hough for the committee.

Recess.

Senator Heath in the Chair.

SENATOR HOUGH: I rise in support of the committee report on HB 1366, an act relative to adopting the state operating budget in the second year of the legislative session. I do this, Senator Humphrey, with all humility and trepidation, and my arrogance is not as strong as the outcome of this bill as it was on the preceeding bill; however, I would tell you that I am very serious when I speak in support of the objectives, of what this bills hopes to accomplish. This piece of legislation recognizes that the people of the state of New Hampshire have ratified their Constitution to allow the legislature to meet on an annual basis; when they did that, they did not make a provision for us to have an annual budget. The reason I suspect, that they held that position, although it would be contrary to mine, was that they recognized that this citizen legislature and the members of the executive departments of state government, should not be forced to undergo the tremendous workload of preparing the budget document on an annual basis. So they have maintained a biennial budget with the recognition, after decades of annual emergency special sessions to deal with the budget adjustments, that the second

year of the biennium would be a time wherein we could pass our budget adjustment act. What this piece of legislation does is that it requires a reratification, if you will, of the second year of the biennial budget. Quite frankly, this legislature as it finds itself in the closing hours of the session on the even year, is in conference with HB 1025 and HB 1026 which are truly the budget adjustment acts for the second year of the biennium. There has been an unhealthy threat, if you will, of vetoing six months of work. In the collective wisdom of 424 members of a citizen legislature, should be able to address under the protection and the control of the budget process, our funding documents and allow us to put them in place prior to July 1. As it stands now, we may be hampered. If we are hampered, you will find that we will find it difficult to go out of session. Annual sessions are a fact of life in New Hampshire, and clearly we recognize this. In those times, once in the 20 years that I have been here, we didn't have a special session, but we were in the recess mode, we had three, I believe, recall days. Clearly the intent is to foster the legislative budgetary tool and allow us to recognize the change that has surfaced between last June 30 and today. If the resolution of these changes, on behalf of the people of the state of New Hampshire are not accepted by both branches of government, then the legislature will have been precluded from its rightful responsibility. We should not be move to July 1, until we have our house in order. The pressure of a reratification of the second year of a biennial budget is of utmost importance if you are to maintain the rights, the prerogative and the integrity of this legislative body. Now, Mr. President, I recognize that this seemingly simple statement of government will be opposed, and opposed by our leader, but he too, soon will come to recognize the errors of his way. Many of us will come and go from this body, but the integrity of the legislative process is of paramount importance to me, and I will do whatever I can to protect our rights. You should pass this piece of legislation because it is consistent with the process that we have come to know and love, to do otherwise is to accede to an executive branch of government, that a power that they should not have.

SENATOR PODLES: Senator Hough, the fiscal note indicates to me, that to institute an annual state budget instead of a biennial state budget, the cost in dollars and the cost in additional hiring would be astronomical. Could you comment on this?

SENATOR HOUGH: I think if you listened to my remarks . . .

SENATOR PODLES: I did listen, Senator, I did.

SENATOR HOUGH: I told you that the fiscal note was in error, clearly it is in error. I don't know who drafted this. I don't know who

drafted the fiscal note. It isn't a question of who drafted the fiscal note, the fiscal note is in error. We clearly do not have annual budgets, and we clearly do not have the provisions for annual budgets. The reason that we do not have annual budgets is consistent with what the fiscal note says. Were we to have annual budgets, it would require members of the executive departments of government to appear before us each year at great expense and quite frankly, a great waste of time. But reality would tell you, as your experience has shown you, that we meet annually and whether or not we meet by Constitution on an annual basis, prior to that, we met under emergency special session in the even year, and the reasons we met under emergency special session in the even year was always to adjust the biennial budget. What this bill does, is it requires a reratification of the budget adjustment act in the second year without pulling in all of the bureaucrats six months in advance as we do every two years. So the fiscal note really is not correct as it relates to this bill. The point that the fiscal note makes is consistent with my statements of why we don't have annual budgets.

SENATOR PODLES: In order for me to vote for or against this bill, I need to know what else is going to happen. I mean would you agree . . . alright, answer the question.

SENATOR HOUGH: What would happen if we passed this bill, is that you would be required to reratify through the budget adjustment act, the second year of the biennium. Failure to do so, would in effect, bring us to a standstill, as we would be brought to a standstill in the odd year, every June 30 if we haven't put in place a biennial budget.

SENATOR DUPONT: I would like to start off by recognizing Senator Hough. We spent some time recognizing Senator Blaisdell for his contribution to the Finance process in the Senate, although some of us may not agree philosophically with where Ralph takes us sometimes, the amount of time that he has put into certain sections of the budget, I think, has made him an expert on those specific sections of the budget that probably, that we haven't seen within the legislative process. That is my compliment to Senator Hough. I would now like to say that you are wrong on this piece of legislation. What Senator Hough has not told you, he knows full well, but he just doesn't want to tell you the whole story. The problem with this piece of legislation is that it removes from the process, the one bit of planning that we still have left in state government on fiscal matters. The requirement that department heads plan for two years into the future. There is no need for us to be dealing with the second year budget; if in fact they do their work well. The reason that we come in on the

second year now is because of annual sessions, not for the purposes of starting the whole budget process over again. This brings state government to a halt, because right now, it takes six months for department heads to put their budget together. What we are going to have is six months each year with department heads bogged down in process of responding to the Governors Office, responding to the legislature with what their expectations are going to be for the next year. The fiscal impact is significant, because it will require a complete redrafting of a budget bill every year, not just in the off years as we now have it. If you want to look at a parallel, what you need to look at is Washington. Senator Humphrey, I am sure, can comment on this, where they never end the budget process in Washington. We at least have an end here; and to come back in the second year, we make the adjustments on the line items where it was necessary, but we don't keep the budget open 12 months of the year. I think that this is the first start of the process towards the annual budget process in our state. It is inappropriate for us because, I think, that the existing process works well, this is not necessary. It is for those who want longer legislative sessions, and for those who want a more professional legislature, and it is for those who want to spend more of their time in Concord. This clearly will add to the workload of every legislator that sits in this body. Let me just say at the same time, and I am talking about planning, one of the most important things that this legislature, this Senate did, this legislative session, was that we put a piece in the supplemental budget that says that prior to August 15 of this year, that the legislature will take a look at where we are going to be next year and issue a report on what we are going to have for a deficit. You will find it interesting that the same people that want us to have an annual budget, don't want to go along with us doing the planning process that is necessary so that we know how bad the problem is going to be next year; so the department heads are putting their budgets together, starting in August and in fact, they know how bad those budgets are going to be. So we can at one time, say that we can do our work better if we have an annual budget, and on the other hand, ignore the fact that we have a crisis facing us next year. So I would urge my colleagues to vote this legislation down and do it in the benefit of a process that works, and on the fact that this bill is unnecessary.

SENATOR DISNARD: Mr. President, I was really happy and pleased to hear you indicate and mention several times the word planning. I would hope that you will continue to indicate not only to look at the deficit, but perhaps establish a committee which the Governor is not doing, and the Speaker of the House is not doing, to set some priorities which we will be losing in November, where we are

headed \$2,000,000-\$3,000,000-\$400,000,000, I hope that that might be part of your planning. I praise you for somewhat looking at the planning around us.

SENATOR DUPONT: Senator, as you know, in the Senate supplemental budget, there was a section of the budget that required a committee to be put together that had representation from the Senate, the House, the Governor's Office, Administrative Services, for the purposes of putting together a planning document for the departments in state government. We have received from the House, a response that says that they are not interested in doing that. Quite frankly, I think that it is a mistake on their part. I think that it would be an opportunity for us to really come to grips with the problems that may potentially face this state.

Senator Blaisdell moved the question.

Adopted.

Question is on the committee report of ought to pass.

A roll call was requested by Senator Humphrey.

Seconded by Senator Colantuono.

The following Senators voted Yes: Hough, Disnard, Blaisdell, Pressly, McLane, J. King, St. Jean, Shaheen, Hollingworth, Cohen.

The following Senators voted No: Oleson, W. King, Heath, Fraser, Dupont, Currier, Roberge, Bass, Nelson, Colantuono, Podles, Humphrey, Russman, Delahunty.

Yeas 10

Nays 14

Motion of ought to pass fails.

Senator Dupont moved inexpedient to legislate.

Adopted.

HB 1366 is inexpedient to legislate.

HB 1386-FN-A, an act establishing a foundation aid formula study committee, authorizing the committee to hire a consultant to study different methods of financing education and making an appropriation therefor. Finance committee. Inexpedient to Legislate. Senator Hough for the committee.

SUBSTITUTE MOTION

Senator Hough moved to substitute ought to pass for inexpedient to legislate.

SENATOR HOUGH: I would like to speak to the motion. You ought to pass the policy committee of Education's report on this piece of legislation.

Recess.

Out of recess.

Adopted.

SENATOR HUMPHREY: Senator Hough, how much is this consultant going to cost us?

SENATOR HOUGH: It is right in the bill, \$25,000.

Ordered to third reading.

HB 1468-FN-L, an act relative to special education catastrophic aid. Finance committee. Ought to Pass with Amendment. Senator Hough for the committee.

5917L

Amendment to HB 1468-FN-LOCAL

Amend the bill by replacing all after the enacting clause with the following:

1 Estimated Expenditures; Calculation of Catastrophic Aid Payments. Amend RSA 186-C:18, III to read as follows:

III.(a) [The state shall appropriate not less than \$1,000,000 for each fiscal year to assist school districts in meeting catastrophic cost increases in their special education programs.] The state board of education through the commissioner, department of education, shall distribute aid available under this paragraph as entitlement to such school districts as have a special education pupil for whose costs they are responsible, for whom the costs of special education in the fiscal year exceed 3-1/2 times the **estimated** state average expenditure per pupil for the school year preceding the year of distribution. If in any year, the amount appropriated for distribution as catastrophic special education aid in accordance with this section is insufficient therefor, the appropriation shall be prorated proportionally based on entitlement among the districts entitled to a grant; provided that the amount of catastrophic special education aid per pupil for a district requiring such aid shall not be more than 80 percent of catastrophic costs exceeding 3-1/2 times the state expenditure per pupil for the school year preceding the year of distribution for that district]. If there are unexpended funds appropriated under this paragraph at the end of any fiscal year, such funds shall be distributed [according to the equalizing formula established in paragraph II] **for court-ordered placements under RSA 186-C:19-b**. The state may designate up to \$250,000 of the funds which are appropriated as required by this paragraph, for each fiscal year, to assist those school districts which, under guidelines established by rules of the state board of education, may qualify for emergency

assistance for special education costs. Upon application to the commissioner of education, and approval by the commissioner, such funds may be accepted and expended by school districts in accordance with this chapter; provided, however, that if a school district has received emergency assistance funds for certain educationally disabled children, it shall not receive catastrophic special education aid for those same educationally disabled children. If any of the funds designated for emergency assistance under this paragraph are not used for such emergency assistance purposes, the funds shall be used to assist school districts in meeting catastrophic cost increases in their special education programs as provided by this paragraph.

(b) The school district shall be liable for 3-1/2 times the estimated state average expenditure per pupil for the school year preceding the year of distribution, plus 20 percent of the additional cost, up to 10 times the estimated state average expenditure per pupil for the school year preceding the year of distribution.

(c) The department of education shall be liable for 80 percent of the cost above the 3-1/2 times the estimated state average expenditure per pupil for the school year preceding the year of distribution, up to 10 times the estimated state average expenditure per pupil for the school year preceding the year of distribution. The department of education shall be liable for all costs in excess of 10 times the estimated state average expenditure per pupil for the school year preceding the year of distribution.

2 Liability for Costs Changed. Amend RSA 186-C:7, IV to read as follows:

IV. The department of education, bureau of special education services, shall review any individualized education plan which includes a residential placement and for which the total cost of the placement exceeds [\$20,000] **10 times the estimated state average expenditure per pupil**. After review, the bureau of special education services may recommend an alternative appropriate placement to the local education agency, the superintendent, the individualized education plan placement team, and the parent.

3 New Paragraph; Costs of Catastrophic Special Education Aid. Amend RSA 186-C:18 by inserting after paragraph VII the following new paragraph:

VIII. A school district shall raise and appropriate funds reflecting the total cost in meeting catastrophic special education student costs as provided under RSA 186-C:18, including the school district and department of education liability. A school district may issue reimbursement anticipation notes as provided for in RSA 198:20-d to be redeemed upon receipt of reimbursement from the state. The department of education shall be liable for the cost of the school

districts borrowing of any funds for special education student costs over 10 times the estimated state average expenditure per pupil for the school year preceding the year of distribution.

4 New Section; Anticipation Notes. Amend RSA 198:20 by inserting after section 198:20-c the following new section:

198:20-d Reimbursement Anticipation Notes. Notwithstanding any other provision of law to the contrary, a school district may incur debt in anticipation of reimbursement under RSA 186-C:18.

5 Estimated State Average Cost Per Pupil. Amend RSA 186-C:19-b, II to read as follows:

II. The school district liability for expenses for special education or for special education and educationally related services for an educationally disabled child in placement for which the division for children and youth services has financial responsibility shall be limited to 3 1/2 times the **estimated** state average [cost] **expenditure** per pupil, [as determined by the state board of education for the preceding school year] **for the school year preceding the year of distribution**. The liability of a school district under this section shall be prorated if the placement is for less than a full school year and the district shall be liable for only the prorated amount. This section shall not limit a school district's financial liability for children who receive special education or special education and educationally related services in a public school or program identified in RSA 186-C:10.

(a) Any costs of special education or special education and educationally related services in excess of 3 1/2 times the **estimated** state average [cost] **expenditure** per pupil **for the school year preceding the year of distribution** shall be the liability of the department of education. Costs for which the department of education is liable under this section shall be paid to education service providers by the department of education. The department of education shall develop a mechanism for allocating the funds appropriated for the purposes of this section.

(b) The division for children and youth services shall be liable for all court-ordered costs pursuant to RSA 169-B:40, 169-C:27, and 169-D:29 other than for special education or special education and educationally related services.

6 Liability for Costs Changed. Amend RSA 186-C:21, IV to read as follows:

IV. For children receiving services under this plan, the legally responsible school district shall be responsible for paying, each year, [\$10,000] 3 1/2 times the **estimated** state average **expenditure** per pupil **for the school year preceding the year of distribution**, plus 20 percent of the additional cost, with the state funding the balance of the cost through funds appropriated to the department of educa-

tion. For children receiving services under this plan, the legally responsible school district shall be determined in accordance with RSA 186-C:19, I(a) and (b).

7 Liability for Costs Changed. Amend RSA 186-C:22, IV to read as follows:

IV. For children receiving services under this plan, the legally responsible school district shall be responsible for paying, each year, [\$10,000] **3 1/2 times the estimated state average expenditure per pupil for the school year preceding the year of distribution**, plus 20 percent of the additional cost, with the state funding the balance of the cost through funds appropriated to the department of education. For children receiving services under this plan, the legally responsible school district shall be determined in accordance with RSA 186-C:19, I(a) and (b).

8 Effective Date. This act shall take effect July 1, 1992.

AMENDED ANALYSIS

This bill allows payments to school districts using estimated expenditures of the school districts.

The school district will be liable for 3-1/2 times the estimated state average expenditure per pupil for the school year preceding the year of distribution plus 20 percent of the additional cost up to 10 times the estimated state average expenditure per pupil. The department of education will be liable for 80 percent of the cost above 3-1/2 times the estimated expenditure per pupil for the school year preceding the year of distribution up to 10 times the estimated state average expenditure per pupil. The department will be responsible for all costs in excess of 10 times the estimated state average expenditure per pupil.

The current law provides payments to school districts by calculating the state average expenditure per pupil for the school year preceding the year of distribution.

The bill deletes the state minimum appropriation to districts for special education catastrophic cost increases.

This bill requires any individual education plan which includes a residential placement, and for which total education costs exceed 10 times the estimated state average expenditure per pupil, to be approved by the special education bureau of the department of education.

This bill requires a school district to raise and appropriate funds reflecting the total cost of meeting catastrophic special education student costs and to issue reimbursement anticipation notes in anticipation of reimbursement from the state.

This bill limits school district liability for expenses of special education for which the division of children and youth services has financial responsibility to 3 1/2 times the estimated state average cost per pupil for the school year preceding the year of distribution. Current law limits such liability to 3 times the state average cost per pupil.

This bill also makes the legally responsible school district responsible for paying each year, 3 1/2 times the estimated state average expenditure per pupil for the school year preceding the year of distribution. Current law limits liability to \$10,000 plus 20 percent of the additional cost.

SENATOR HOUGH: You will recall earlier in the day that I moved reconsideration where we concurred with SB 411 which I sponsored. Having reconsidered concurrence, I then moved non concurrence and I did not request a Committee of Conference. At the time, I told you that at this point, I now prefer HB 1468 sponsored by Senator Disnard, the Chairman of the Education committee. The amendment makes this House Bill consistent with what was in the Senate Bill that we have effectively killed. What the bill now does under Senator Disnard's leadership is, cap at \$48,000 the cost to local communities, specifically such as the town of Nelson, that have the extreme special education cases. Further, we are establishing parity with the threshold of 3-1/2 times the most recent statewide per pupil cost for the catastrophic aid, the court ordered placement catastrophic cases and the demonstration projects. We are also allowing for the estimates of special education costs as opposed to the actual, this would allow for more timely payments to the local school districts. We are also allowing estimates for the court ordered placement special education payments back to the local communities. We are allowing the local communities to borrow in excess of the . . . excuse me, we are allowing for the money in excess of \$48,000 to be borrowed in anticipation. This bill does everything that SB 411 as amended by the House does and this is the vehicle that we should move forward with.

Committee amendment adopted.

Ordered to third reading.

RECONSIDERATION

Senator Delahunty moved having voted with the prevailing side that he now move reconsideration on HB 1161 relative to the composition of the wetlands board.

SENATOR DELAHUNTY: Last Thursday I voted yes on a motion of inexpedient to legislate on HB 1161 which originally came out of

the Executive departments as ought to pass. This bill would have added one person, a representative of the construction industry to the Wetlands Board. Currently the board is made up of 11 members, three are public members, one is from a conservation commission, one from a conservation district, and one municipal official. Having an opportunity to take a closer look at the bill, I feel that my vote was a mistake. I feel very strongly that the Wetlands Board needs balance and this new member will bring that balance to the board. Currently, there was a similar representation on the Water Pollution Board and other boards and commissions to create balance. I am not saying that the board has been unfair, but it just seems to me, that involvement on the part of the construction industry would both be helpful and right. Thank you.

SENATOR PRESSLY: Senator Delahunty, I agree with you that boards and commissions should be balanced and I beg your forgiveness in not being as knowledgeable as you are. I was under the impression that the Wetlands was more of an advocacy board, and that if you put that they should all be advocates of the environmental aspect of wetlands. So maybe the question should be, do you have an environmentalist on the construction peoples boards? I mean is it balanced that way?

SENATOR DELAHUNTY: Senator Pressly, if you make that motion, we will make a board to put them on. I would be glad to consider it.

SENATOR PRESSLY: Would you consider this an advocacy board, sir, or what type of a board would you consider this as?

SENATOR DELAHUNTY: The Wetlands Board?

SENATOR PRESSLY: Yes.

SENATOR DELAHUNTY: An environmental board. Concerned with the environmental issues, and contractors are concerned with, and the public is concerned with, and the consumers are concerned with, yes.

SENATOR PRESSLY: Thank you.

SENATOR MCLANE: We have had the discussion about the Wetlands Board, the Wetlands Board is created as Senator Pressly very intelligently points out, as an advocacy board. The advocacy is to preserve wetlands. If the construction industry isn't happy with the Wetlands Board, there are other avenues. But to add a construction person to the Wetlands Board has been considered by our committee, it has been turned down, and we have gone through the process. I would urge you not to vote reconsideration.

Question is on the motion of reconsideration.

Division vote requested.

Yeas 16

Nays 7

The motion to reconsider HB 1161 is adopted.

Recess.

Out of recess.

Senator Delahunty moved the committee report of ought to pass.

Adopted.

Ordered to third reading.

Recess.

Out of recess.

TAKEN OFF THE TABLE

Senator Currier moved that we have HB 1455-FN an act relative to motor vehicle laws, including suspension of wholesale motor vehicle dealer's registration, hanging disability placards and other technical changes taken off the table.

SENATOR CURRIER: As you recall there was a lot of discussion regarding this bill. Senator Heath will be proposing a floor amendment #5956L which is a compromise position dealing with the motorcycle lemon law and some other issues that were dealt with in regard to this bill earlier. I rise in support of the amended version. I now defer to Senator Heath to explain the amendment.

Adopted.

HB 1455-FN, an act relative to motor vehicle laws, including suspension of wholesale motor vehicle dealer's registration, hanging disability placards, and other technical changes.

SENATOR HEATH: This has been sort of a long ordeal that didn't need to be, it seems to me, to get us involved as it did, but it did get involved, and I think that we have it straightened it out to everyone's satisfaction. What this does is, it keeps many of the things that were in the original bill. It removes a requirement that the director checked for valid licenses when registering cars over at safety, he objected to that because of the manpower that would be involved, so we took that out. It retains the waiver that the Commissioner of Insurance wanted to be able to sort out legitimate and illegitimate out-of-states, who wanted to buy insurance on cars up here. It changes a technical problem in the requirement that people who default in courts for over \$100 that it get reported to credit bureaus,

and that a warning be put on their court papers to that effect so that they know of the consequence of doing it. Finally, it cuts a compromise, I hope the last compromise. We have been through about five compromises on the motorcycle mileage for the purpose of the lemon law, and the compromise is 20,000 for small bikes and 40,000 for large bikes, and 100,000 is retained for automobiles. I would urge you to give this final passage so that we can get through with having to revisit it so many times. Thank you.

Senator Heath offered a floor amendment.

5956L

Floor Amendment to HB 1455-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to motor vehicle laws, including suspension
of wholesale motor vehicle dealer's registration,
hanging disability placards, other technical
changes, and relative to nonresident
automobile insurance.

Amend the bill by replacing all after section 12 with the following:
13 Diesel Fuel Exemption. Amend RSA 260:52, V to read as follows:

V. Every user of special fuel shall procure a user's license for each motor vehicle propelled by such fuel, which will expire on January 1 of each year, on such forms as the department may prescribe at a fee of \$5. It shall be unlawful for any owner or driver to drive or cause to be driven any motor vehicle propelled by such fuel over the ways of this state unless he is the holder of a valid user's license or has been granted authority to drive on a temporary basis as provided in RSA 260:52, VI. Notwithstanding this provision, all pleasure-type vehicles **and trucks with a gross registered weight of 10,000 pounds or less**, registered exclusively in another state shall be exempted from the requirements of a user's license. For the purposes of this section, pleasure-type vehicles shall be limited to all vehicles with a registered gross weight of less than [7,000] **10,000** pounds, recreational vehicles and buses which have been structurally altered for use as campers which are not common or contract carriers of passengers and do not have a seating capacity of more than 19 passengers.

14 New Paragraph; Unpaid Fines Reported to Credit Bureau. Amend RSA 263:56-a by inserting after paragraph VI the following new paragraph:

VII. Whenever any defendant defaults on any arraignment or other scheduled court appearance and has failed to pay a fine or fines or any other penalty which totals more than \$100, the clerk of the court in which the default occurred shall notify a credit bureau in the defendant's home state of the total amount of any unpaid fines or penalties. Any summons issued by the director shall state conspicuously that a defendant's failure to pay fines which total over \$100 shall result in notification by the clerk of the court in which the default occurred to a credit bureau in the defendant's home state.

15 New Section; Nonresidency Automobile Insurance. Amend RSA 412 by inserting after section 2-c the following new section:

412:2-d Prohibition on Nonresident Automobile Insurance.

I. Notwithstanding any other provision of law to the contrary, no individual shall be provided coverage under a policy of automobile insurance, as defined in RSA 417-A, if such individual is found for the purposes of this section not to be a resident of New Hampshire at the time such policy was issued or renewed. Payment shall be made by the insurer for all valid bodily injury and property damage liability claims and all valid uninsured motorist claims by individuals other than the applicant for insurance who signed the statement required by RSA 417-A:3-b arising under such policy; however, the insurer shall be legally entitled to reimbursement by the policyholder for all such paid claims.

II. Any nonresident who meets the requirements for nonresident registration under RSA 261:46 shall be exempt from the provisions of paragraph I.

16 Rates for Motor Vehicle Insurance. RSA 412:19, RSA 412:19-a and RSA 412:19-b are repealed and reenacted to read as follows:

412:19 Assigned Risks. Claims paid by an insurer under a policy of automobile insurance, as defined in RSA 417-A, issued to an individual found not to be a resident of New Hampshire shall not be included in the calculation of premium rates filed with the commissioner for approval.

412:19-a Claims Schedule. Every insurance company individually or through a rating organization shall file annually with the commissioner a schedule of all otherwise valid claims denied under the provisions of RSA 412:2-d, all bodily injury and property damage liability claims paid under a policy issued to an individual found not to be a resident of New Hampshire and amounts reimbursed by policyholders for all such paid claims.

412:19-b Rulemaking. The commissioner shall adopt rules, under RSA 541-A, relative to defining "resident" for the purposes of this chapter and RSA 417-A, including any criteria necessary for demonstrating residency in the state.

17 Definition of Automobile Insurance Policy. RSA 417-A:1, I is repealed and reenacted to read as follows:

I. "Policy of automobile insurance" means a policy delivered or issued for delivery in this state insuring a person as named insured or one or more related individuals resident of the same household, and under which the insured vehicles therein designated includes a private passenger automobile as defined in rules adopted by the commissioner pursuant to RSA 541-A.

18 New Section; Statement of Residency. Amend RSA 417-A by inserting after section 3-a the following new section:

417-A:3-b Statement of Residency. Insurers shall require applicants for coverage under all new or renewal policies of automobile insurance to sign a statement attesting that such applicant is a resident of the state of New Hampshire or that such applicant meets the requirements for nonresident registration under RSA 261:46. The form and content of such statement shall be determined by rules adopted by the insurance commissioner pursuant to RSA 541-A.

19 Motor Vehicle Warranties; Motorcycles Added. Amend RSA 357-D:3, V to read as follows:

V. If, after a reasonable number of attempts, the manufacturer, its agent or authorized dealer or its delegate is unable to conform the motor vehicle to any express warranty by repairing or correcting any defect or condition covered by the warranty which substantially impairs the use, market value, or safety of the motor vehicle to the consumer, the manufacturer shall, at the option of the consumer within 30 days of the effective date of the board's order, replace the motor vehicle with a new motor vehicle from the same manufacturer, if available, of comparable worth to the same make and model with all options and accessories with appropriate adjustments being allowed for any model year differences or shall accept return of the vehicle from the consumer and refund to the consumer the full purchase price or to the lessee, in the case of leased vehicles, as provided in paragraph IX. In those instances in which a refund is tendered, the manufacturer shall refund to the consumer the full purchase price as indicated in the purchase contract and all credits and allowances for any trade-in or down payment, license fees, finance charges, credit charges, registration fees, and any similar charges and incidental and consequential damages or, in the case of leased vehicles, as provided in paragraph IX. Refunds shall be made to the consumer and lienholder, if any, as their interests may appear, or to the motor vehicle lessor and lessee as provided in paragraph

IX. A reasonable allowance for use shall be that amount directly attributable to use by the consumer prior to the first repair attempt and shall be calculated by multiplying the full purchase price of the vehicle by a fraction having as its denominator 100,000, **or for a motorcycle with an engine size of 250 cubic centimeters or smaller 20,000, or for a motorcycle with an engine size greater than 250 cubic centimeters 40,000**, and having as its numerator the number of miles that the vehicle traveled prior to the first attempt at repairing the vehicle.

20 Repeal. RSA 261:58, II, relative to motorcycles used for off highway recreational purposes, is repealed.

21 Effective Date.

I. Section 1 of this act shall take effect July 1, 1992.

II. The remainder of this act shall take effect January 1, 1993.

Amend the bill by deleting sections 1 and 10 and renumbering the original sections 2-9 and 11-21 to read as 1-19, respectively.

AMENDED ANALYSIS

This bill establishes a disability hanging placard for motor vehicles and makes other technical changes relative to motor vehicle laws.

This bill requires the court clerks to notify any state credit bureau of any defendant's unpaid motor vehicle fines which total more than \$100.

This bill also prohibits the issuance of automobile insurance to nonresidents except for limited motor vehicle registration purposes. The insurance commissioner shall adopt rules relative to defining residency for the purposes of liability insurance and refusal of automobile insurance renewal.

Floor amendment adopted.

Ordered to third reading.

Senator W. King in opposition to HB 1455.

TAKEN OFF THE TABLE

Senator Pressly moved to have HB 1050-FN an act limiting outdoor advertising devices and increasing permit fees for maintaining outdoor advertising devices taken off the table.

Adopted.

HB 1050-FN, an act limiting outdoor advertising devices and increasing permit fees for maintaining outdoor advertising devices.

SUBSTITUTE MOTION

Senator Pressly moved to substitute ought to pass for inexpedient to legislate.

Adopted.

SENATOR PRESSLY: I rise to suggest the amendment as you can read in your amendment, it is to create a travelers signage task force to investigate means to establish a uniformed traveler signage program. This is something that everyone has agreed that should and must be done. I would be happy to answer any questions relative to it. I would like to indicate that there have been many times in the past, that people have tried to come to an agreement, thus far, they have not. However, there have been some things that have happened recently that might inspire this to happen. One of them has been the federal transportation act that provides for more incentives for this type of a thing. This is strictly a task force. If there are any disagreements as far as the makeup of the committee, there will of course be a Committee of Conference and that could be ironed out. It is a fairly uniform consensus that this is something that will be good for the state of New Hampshire.

Senator Pressly offered a floor amendment.

5874L

Floor Amendment to HB 1050-FN-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT

creating a traveler signage task force to investigate means
to establish a uniform traveler signage program.

Amend the bill by replacing all after the enacting clause with the following:

1 Policy. Amend RSA 236:69 to read as follows:

236:69 Policy. It is hereby declared to be the policy of this state and in the public interest to provide for maximum visibility along the interstate system, federal aid primary system, and turnpike system, and connecting roads or highways; to prevent unreasonable distraction of operators [or] of motor vehicles; to prevent confusion with regard to traffic lights, signs or signals or other interference with the effectiveness of traffic regulations; to promote maximum safety, comfort and well-being of users of the interstate system, federal aid primary system, and turnpike system; to preserve and enhance the natural scenic beauty or the aesthetic features of the interstate sys-

tem, federal aid primary system, turnpike system and adjacent areas; to promote the reasonable, orderly and effective display of advertising devices along such systems; [and] to regulate advertising devices along such systems in a manner consistent with customary use in this state; **and to foster tourism in this state by improving awareness of visitors of the travel resources of New Hampshire and to further the goals of traffic safety by providing clear directional and informational signage.** To implement this declared policy and cooperate with the United States government in the construction and maintenance of public highways in accordance with Title 23 United States Code as amended and supplemented, this subdivision provides for the regulation of advertising devices on the interstate and federal aid primary highway systems.

2 New Section; Declaration of Findings. Amend RSA 236 by inserting after section 69 the following new section:

236:69-a Declaration of Findings. The general court hereby finds and declares that:

I. Travelers are drawn to New Hampshire by its many scenic natural resources.

II. Many New Hampshire citizens earn their living from the tourist industry.

III. Scenic resources are of substantial economic and aesthetic value to the state and contribute substantially to the overall quality of its citizens' life.

IV. The multiple laws and regulations affecting the development of a uniform signage policy require a task force to provide direction and assistance in the formulation of a comprehensive and uniform traveler signage policy.

3 New Section; Traveler Signage Task Force Established. Amend RSA 236 by inserting after section 86 the following new section:

236:86-a Traveler Signage Task Force Established. There is hereby established a traveler signage task force.

I. The task force shall consist of the following members:

(a) Two members of the senate, appointed by the president of the senate.

(b) Two members of the house of representatives, appointed by the speaker of the house.

(c) The commissioner of the department of transportation, or designee.

(d) The commissioner of the department of resources and economic development, or designee.

(e) The director of the office of state planning, or designee.

(f) The director of the office of travel and tourism development, or designee.

(g) A member of the New Hampshire Lodging and Restaurant Association, appointed by the Association.

(h) A member of the New Hampshire Travel Council, appointed by the Council.

(i) Two members of the New Hampshire Sign Association, appointed by the Association.

(j) A member of the New Hampshire American Automobile Association, appointed by the Association.

(k) A member of the Society of the Protection of New Hampshire Forests, appointed by the Society.

(l) A member of the New Hampshire Association of Chamber Executives, appointed by the Association.

(m) A member of the New Hampshire Historical Society, appointed by the Society.

II. The members of the task force may elect a chairman, vice-chairman, secretary or such other officers as its members shall determine.

III. A majority of the members of the task force shall constitute a quorum for the transaction of any business or the exercise of any power or function of the task force. An act, determination, or decision of the members present and entitled to vote during the presence of a quorum shall be held to be the act, determination or decision of the task force.

IV. The task force shall meet at least quarterly at the call of the chairman. Additional meetings may be called by the chairman subject to the giving of one week's notice, and shall be called at the request of a majority of the members of the task force.

V. Members of the task force shall receive no compensation for their service as members. Legislative members shall receive compensation for mileage at the legislative rate when attending to the business of the task force. Members of the task force representing state agencies and departments shall be compensated for their actual and necessary expenses.

VI. The traveler signage task force shall:

(a) Identify and define responsibilities with respect to the placement of tourism related directional and information signage and promote interagency cooperation in order to encourage a uniform traveler signage policy.

(b) Examine all existing laws and regulations concerning permitted advertising devices, replacement of vegetation, permit fees for maintaining certain outdoor advertising devices, and just compensation for certain advertising devices subject to removal.

(c) Advise on the development of a uniform and comprehensive state policy on traveler related signage and other tourism information services.

(d) Assist in the development of a comprehensive plan for the funding, placement and maintenance of directional and informational signs in accordance with an established policy on traveler signage.

(e) Assist and advise on the preparation, publication and distribution of a handbook on traveler signage that will identify laws and rules governing traveler related signage, including contact points for the public to use in soliciting information and to apply for placement of traveler related signage and identifying costs associated with such directional signage.

(f) Advise and assist in the development of an implementation plan for traveler signage and such other information services as are necessary to guide the traveling public.

(g) Review, evaluate and advise on conflicts associated with overlapping jurisdiction governing signage, limitations on the placement of signs, and establishing priority for placement of signage when demand exceeds the available space for directional **and informational** signage, and such other issues which may come to the attention of the task force.

(h) Evaluate and recommend legislative initiatives to enhance or facilitate the development of a traveler signage policy or plan.

(i) Report on or before January 1 of each year to the governor, the president of the senate, the speaker of the house, and chairmen of appropriate legislative committees.

VII. The task force may request and shall receive from any subdivision, department, board, bureau, commission, office, agency, or other instrumentality of the state, or any political subdivision thereof, such assistance and data as it deems necessary and desirable for the proper execution of its functions, powers and duties hereunder.

4 First Meeting of Task Force. The task force shall hold its first meeting within 30 days of the effective date of this act.

5 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill creates a traveler signage task force to investigate means to establish a uniform traveler signage program.

SENATOR MCLANE: Senator Pressly, as I see this, there are eight members that want to put signs up all over New Hampshire and only two members that don't, do you think that this is a fair and balanced committee?

SENATOR PRESSLY: There is some discussion, and fairness is in the eyes of the beholder. I think that I support and I hope that everyone supports that every interest be represented. If there is some

juggling of that, that can be done at the Committee of Conference, but everyone has agreed that we need to have something out there to be looking at it and studying it for, I believe that all the people agree to that, the makeup of the Board might not be what people want, but as you know, Senator McLane, on any task force, there will always be a situation where they will have people come in if it is imbalanced, also it will all come out on the end product.

SENATOR MCLANE: I guess my second question is: I don't agree with you and I wonder why and heck after that lovely flowerly introduction, you put two members of the New Hampshire Sign Association on it. Everyone else only has one member?

SENATOR PRESSLY: It is very clear that the members who have the most vested interest are those who do have the signs. They are the one interest that has not been able to find agreement, and they do feel that this is an effort to have everyone sit down and start to work together. If you feel that this will go to a Committee of Conference, I am sure that there will be some give and take, and you would have opportunity at that time. But, again, it is not perfect, and it depends where you are coming from; however, I know I feel, as a strong environmentalist, that this is something that must be done and should be done.

SENATOR OLESON: I have mixed feelings on HB 1050. I had a pile of amendments if anyone wants to spend the next evenings or the next couple of years, I will be glad to bequeath it to them. It was our feelings that on this Sign Board, if you like, recently, our good President has determined that a certain hundreds of millions of dollars will be spent on transportation, but there is always a little bit of a string and the string is: just like a TAPE INAUDIBLE in 67, I believe, where we get 96 percent of federal funding or we would lose two percent if we didn't abide by certain things. Immediately everybody came down there with a little sign that they wanted to put here and there and they were nullified that amount of money. It was my opinion, and I read many of these amendments. Some of the past would jeopardize many millions of dollars that had been assigned to New Hampshire if we abide by these certain strings. One corner of my mouth, I will say that I drove home from Little River and Twin Mountain and traveled to the junction of 115, and I can count 89 signs on the right hand side of the road, and I didn't talk about the one on the left. In one sense, I can save the state money by allowing a few more signs and then they won't have to buy any snow fences, so I do have mixed feelings on this. Nevertheless, I will go along with the amendment at the present time, because there will be a Committee of Conference where I can blow a little bit more smoke there. Thank you, Mr. President.

Floor amendment adopted.

Ordered to third reading.

TAKEN OFF THE TABLE

Senator McLane moved that we have HB 1474-FN-A an act relative to taxability of real estate transfers taken off the table.

Adopted.

HB 1474-FN-A, an act relative to taxability of real estate transfers.

SENATOR MCLANE: This bill as it appears before you was taken at the request of the Department of Revenue Administration. We had laid it on the table because we had forgotten an amendment, it turns out that the amendment is not in everyones best interest and can wait, so the bill as it was, will go forward. It is literally house-keeping for the Revenue Administration.

Adopted.

Ordered to third reading.

TAKEN OFF THE TABLE

Senator W. King moved that we have HB 778-FN an act relative to the laws against discrimination taken off the table.

Adopted

HB 778-FN, an act relative to the laws against discrimination.

5342L

Amendment to HB 778-FN

Amend the bill by replacing all after the enacting clause with the following:

1 Law Against Discrimination; Familial Status Category Added. RSA 354-A is repealed and reenacted to read as follows:

CHAPTER 354-A

STATE COMMISSION FOR HUMAN RIGHTS

354-A:1 Title and Purposes of Chapter. This chapter shall be known as the "Law Against Discrimination." It shall be deemed an exercise of the police power of the state for the protection of the public welfare, health and peace of the people of this state, and in fulfillment of the provisions of the constitution of this state concerning civil rights. The general court hereby finds and declares that practices of discrimination against any of its inhabitants because of age, sex, race, creed, color, marital status, familial status, physical or

mental disability or national origin are a matter of state concern, that such discrimination not only threatens the rights and proper privileges of its inhabitants but menaces the institutions and foundation of a free democratic state and threatens the peace, order, health, safety and general welfare of the state and its inhabitants. A state agency is hereby created with power to eliminate and prevent discrimination in employment, in places of public accommodation and in housing accommodations because of age, sex, race, creed, color, marital status, familial status, physical or mental disability or national origin as herein provided; and the commission established hereunder is hereby given general jurisdiction and power for such purposes.

354-A:2 Definitions. In this chapter:

I. "Commercial structure" means any building, structure, or portion thereof which is continuously or intermittently occupied or intended for occupancy by a commercial or recreational enterprise, whether operated for profit or not, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

II. "Commission," unless a different meaning clearly appears from the context, means the state commission for human rights created by this chapter.

III. "Covered multifamily dwellings" means:

(a) Buildings consisting of 4 or more units if such buildings have one or more elevators; and

(b) Ground floor units in other buildings consisting of 4 or more units.

IV. "Disability" means, with respect to a person:

(a) A physical or mental impairment which substantially limits one or more of such person's major life activities;

(b) A record of having such an impairment; or

(c) Being regarded as having such an impairment.

Provided, that "disability" does not include current, illegal use of or addiction to a controlled substance as defined in the Controlled Substances Act 21 U.S.C. 802 sec. 102.

V. "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

VI. "Employee" does not include any individual employed by a parent, spouse or child, or any individual in the domestic service of any person.

VII. "Employer" does not include a club exclusively social, or a fraternal, charitable, educational or religious association or corporation, if such club, association or corporation is not organized for private profit, nor does it include any employer with fewer than 6 persons in its employ, but shall include the state and all political subdivisions, boards, departments and commissions thereof.

VIII. "Employment agency" includes any person undertaking to procure employees or opportunities to work.

IX. "Familial status" means one or more individuals, who have not attained the age of 18 years of age, and are domiciled with

(a) A parent, grandparent or another person having legal custody of such individual or individuals; or

(b) The designee of such parent or other person having such custody, with the written permission of such parent or other person. "Familial status" also means any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

X. "Labor organization" includes any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection in connection with employment.

XI. "Multiple dwelling" means 2 or more dwellings, as defined in paragraph V, occupied by families living independently of each other.

XII. "National origin" includes ancestry.

XIII. "Person" includes one or more individuals, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, trustees in bankruptcy, receivers, and the state and all political subdivisions, boards, and commissions thereof.

XIV. "Place of public accommodation" includes any inn, tavern or hotel, whether conducted for entertainment, the housing or lodging of transient guests, or for the benefit, use or accommodations of those seeking health, recreation or rest, any restaurant, eating house, public conveyance on land or water, bathhouse, barbershop, theater, golf course, sports arena, health care provider, and music or other public hall, store or other establishment which caters or offers its services or facilities or goods to the general public. "Public accommodation" shall not include any institution or club which is in its nature distinctly private.

XV. "Unlawful discriminatory practice" includes:

(a) Practices prohibited by RSA 354-A;

(b) Practices prohibited by the federal Civil Rights Act of 1964, as amended (PL 88-352);

(c) Practices prohibited by Title VIII of the Civil Rights Act of 1968, as amended (42 U.S.C. 3601-3619);

(d) Aiding, abetting, inciting, compelling or coercing another or attempting to aid, abet, incite, compel or coerce another to commit an unlawful discriminatory practice or obstructing or preventing any person from complying with this chapter or any order issued under the authority of this chapter.

354-A:3 State Commission for Human Rights.

I. There is hereby created a commission to be known as the New Hampshire commission for human rights. Such commission shall consist of 7 members, who shall be appointed by the governor, with the consent of the council, and one of whom shall be designated as chair by the governor. The term of office of each member of the commission shall be for 5 years.

II. Any member chosen to fill a vacancy occurring otherwise than by expiration of term shall be appointed for the unexpired term of the member whom is to be succeeded. Three members of the commission shall constitute a quorum for the purpose of conducting the commission's business. A vacancy in the commission shall not impair the right of the remaining members to exercise all the powers of the commission. Each member of the commission shall be entitled to his expenses actually and necessarily incurred by him in the performance of his duties.

III. Any member of the commission may be removed by the governor and council for inefficiency, neglect of duty, misconduct or malfeasance in office, after being given a written statement of the charges and an opportunity to be heard.

354-A:4 General Powers and Duties of the Chair. The chair shall serve as the chief executive officer of the commission. The chair shall promote the efficient transaction of its business and the orderly handling of complaints and other matters before the commission. The chair shall designate commissioners to investigate and commissioners to hold hearings pursuant to RSA 354-A:21 and shall fix the times and places of public hearings. In the event of the chair's absence or inability to act, the vice-chair or if no vice-chair has been designated, a commissioner designated by the chair shall act in the chair's stead. Otherwise a commissioner shall be designated by the governor to act as chair.

354-A:5 General Powers and Duties of the Commission. The commission shall have the following functions, powers and duties:

I. To establish and maintain its principal office in the city of Concord, and such other offices within the state as it may deem necessary.

II. To meet and function any place within the state.

III. To appoint such attorneys, clerks, and other employees and agents as it may deem necessary, fix their compensation within the limitations provided by law, and prescribe their duties.

IV. To obtain upon request and utilize the services of all governmental departments and agencies.

V. To adopt rules, under RSA 541-A suitable to carry out the provisions of this chapter, and the policies and practice of the commission in connection therewith.

VI. To receive, investigate and pass upon complaints alleging violations of this chapter.

VII. To hold hearings, subpoena witnesses, compel their attendance, administer oaths, take the testimony of persons under oath, and, in connection therewith, require the production for examination of any books or papers relating to any matter under investigation or in question before the commission. The commission may make rules as to the issuance of subpoenas by individual commissioners. No person shall be excused from attending and testifying or from producing books, records, correspondence, documents or other evidence in obedience to the subpoena of the commission, on the ground that the testimony or evidence required may tend to incriminate or subject such person to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which such person is compelled, after having claimed the privilege against self-incrimination, to testify or produce evidence, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

VIII. To create such advisory agencies and conciliation councils, local, regional or statewide, as in its judgment will aid in effectuating the purpose of this chapter, and the commission may empower them to study the problems of discrimination in all or specific fields of human relationships or in specific instances of discrimination, because of age, sex, race, color, marital status, familial status, or physical or mental disability, religious creed or national origin, in order to foster, through community effort or otherwise, good will, cooperation and conciliation among the groups and elements of the population of the state, and make recommendations to the commission for the development of policies and procedures in general and in specific instances, and for programs of formal and informal education which the commission may recommend to the appropriate state agency. Such advisory agencies and conciliation councils shall be composed of representative citizens, serving without pay, but with reimbursement for actual and necessary traveling expenses; and the commission may make provision for technical clerical assistance to such agencies and councils and for the expenses of such assistance.

IX. To issue such publications and such results of investigations and research as in its judgment will tend to promote good will and minimize or eliminate discrimination because of age, sex, race, color, marital status, familial status, physical or mental disability, religious creed or national origin.

X. To render biennially to the governor and council a full written report of its activities and of its recommendations.

XI. To adopt an official seal.

XII. To accept and utilize for its purposes, functions and duties as set forth in this chapter public and private grants, gifts, donations and contributions of money and other assets and properties, real and personal, of all types and kinds, without limitations.

XIII. To formulate policies to effectuate the purposes of this chapter and make recommendations to agencies and officers or its political subdivisions in aid of such policies and purposes.

XIV. To utilize the services of the department of justice to obtain injunctive relief in state and federal courts.

Equal Employment Opportunity

354-A:6 Opportunity for Employment Without Discrimination a Civil Right. The opportunity to obtain employment without discrimination because of age, sex, race, creed, color, marital status, physical or mental disability or national origin is hereby recognized and declared to be a civil right.

354-A:7 Unlawful Discriminatory Practices. It shall be an unlawful discriminatory practice:

I. For an employer, because of the age, sex, race, color, marital status, physical or mental disability, religious creed, or national origin of any individual, to refuse to hire or employ or to bar or to discharge from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment, unless based upon a bona fide occupational qualification.

II. For a labor organization, because of the age, sex, race, color, marital status, physical or mental disability, creed, or national origin of any individual, to exclude from full membership rights or to expel from its membership such individual or to discriminate in any way against any of its members or against any employer or any individual employed by an employer, unless based upon a bona fide occupational qualification.

III. For any employer or employment agency to print or circulate or to cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment or to make any inquiry or record in connection with

employment, which expresses, directly or indirectly, any limitation, specification or discrimination as to age, sex, race, color, marital status, physical or mental disability, religious creed or national origin or any intent to make any such limitation, specification or discrimination in any way on the ground of age, sex, race, color, marital status, physical or mental disability, religious creed or national origin, unless based upon a bona fide occupational qualification; provided, however, that nothing in this chapter shall limit an employer after the offer of hire of an individual from inquiring into and keeping records of any existing or pre-existing physical or mental conditions.

IV. For any employee to be required, as a condition of employment, to retire upon or before reaching a specified predetermined chronological age, or after completion of a specified number of years of service unless such employee was elected or appointed for a specified term or required to retire pursuant to Pt. II, Art. 78 of the constitution of New Hampshire. It shall not be unlawful for an employer to:

(a) Establish a normal retirement age, based on chronological age or length of service or both, which may be used to govern eligibility for and accrual of pension or other retirement benefits; provided that such normal retirement age shall not be used to justify retirement of or failure to hire any individual; or

(b) Require any individual employee to retire on the basis of a finding that the employee can no longer meet such bona fide, reasonable standards of job performance as the employer may have established.

V. Harassment on the basis of sex constitutes unlawful sex discrimination. Unwelcome sexual advances, requests for sexual favors, and other verbal, non-verbal or physical conduct of a sexual nature constitutes sexual harassment when:

(a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

(b) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

(c) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

VI.(a) For the purposes of this chapter, the word "sex" includes pregnancy and medical conditions which result from pregnancy.

(b) An employer shall permit a female employee to take leave or absence for the period of temporary physical disability resulting from pregnancy, childbirth or related medical conditions. When the employee is physically able to return to work, her original job or a

comparable position shall be made available to her by the employer unless business necessity makes this impossible or unreasonable.

(c) For all other employment related purposes, including receipt of benefits under fringe benefit programs, pregnancy, childbirth, and related medical conditions shall be considered temporary disabilities, and a female employee affected by pregnancy, childbirth, or related medical conditions shall be treated in the same manner as any employee affected by any other temporary disability.

Fair Housing

354-A:8 Equal Housing Opportunity Without Discrimination a Civil Right. The opportunity to obtain housing without discrimination because of age, sex, race, creed, color, marital status, familial status, physical or mental disability or national origin is hereby recognized and declared a civil right.

354-A:9 Definitions. For the purposes of this subdivision:

I. "Business of selling or renting dwellings" means:

(a) Participation, within the preceding 12 months, as principal in 3 or more transactions involving the sale or rental of any dwelling or commercial structure or any interest therein;

(b) Participation, within the preceding 12 months, as agent, other than in the sale of one's own personal residence, in providing sales or rental facilities or sales or rental services in 2 or more transactions involving the sale or rental of any dwelling or commercial structure or any interest therein; or

(c) Ownership of any dwelling designed or intended for occupancy by, or occupied by, 3 or more families.

II. "Residential real estate-related transaction" means any of the following:

(a) The making or purchasing of loans secured by residential real estate or providing other financial assistance for purchasing, constructing, improving, repairing, or maintaining a dwelling.

(b) The selling, brokering, or appraising of residential real property.

354-A:10 Unlawful Discriminatory Practices. It shall be an unlawful discriminatory practice for any person, being the owner, lessee, sublessee, assignee, managing agent or other person having the right to rent or lease a dwelling or commercial structure or being in the business of selling or renting dwellings or commercial structures:

I. To refuse to sell or rent after the receipt of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling or commercial structure to any person because of age, sex, race, color, marital status, familial status, physical or mental disability, religion or national origin.

II. To discriminate against any person in the terms, conditions, or privilege of sale or rental of a dwelling or commercial structure, or in the provision of services or facilities in connection therewith, because of age, sex, race, color, marital status, familial status, physical or mental disability, religion or national origin.

III. To make, print or publish, or cause to be made, printed or published, any notice, statement or advertisement, with respect to the sale or rental of a dwelling or commercial structure that indicates any preference, limitation, or discrimination based on age, sex, race, color, marital status, familial status, physical or mental disability, religion or national origin, or an intention to make any such preference, limitation or discrimination.

IV. To represent to any person because of age, sex, race, color, marital status, familial status, physical or mental disability, religion or national origin that any dwelling or commercial structure is not available for inspection, sale, or rental when such dwelling is in fact so available.

V. For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular age, sex, race, color, marital status, familial status, physical or mental disability, religion or national origin.

VI. To evict a tenant solely on the grounds that the person has acquired immune deficiency syndrome (AIDS) or is regarded to have acquired immune deficiency syndrome.

VII. For any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of age, race, color, religion, sex, disability, familial status, marital status, or national origin.

354-A:11 Interference, Coercion or Intimidation. If shall be an unlawful discriminatory act to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of having exercised or enjoyed, or on account of having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this chapter.

354-A:12 Unlawful Housing Discrimination on the Basis of Disability. It shall be unlawful:

I. To discriminate in the sale or rental, or to otherwise make unavailable or deny a dwelling to any buyer or renter because of a disability of:

(a) That buyer or renter.

(b) A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available.

(c) Any person associated with that buyer or renter.

II. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a disability of:

(a) That buyer or renter.

(b) A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available.

(c) Any person associated with that person.

III. For purposes of this section, discrimination includes:

(a) A refusal to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises, except that, in the case of a rental, the landlord may where it is reasonable to do so condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.

(b) A refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling.

(c) In connection with the design and construction of covered multifamily dwellings for first occupancy after March 13, 1991, a failure to design and construct those dwelling in such a manner that:

(1) The public use and common use portions of such dwellings are readily accessible to and usable by persons with disabilities;

(2) All the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by disabled persons in wheelchairs; and

(3) All premises within such dwellings contain the features of adaptive design, including: an accessible route into and through the dwelling; light switches, electrical outlets, thermostats, and other environmental controls in accessible locations; reinforcements in bathroom walls to allow later installation of grab bars; and usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

IV. Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically disabled people (commonly cited as "ANSI A117.1") suffices to satisfy the requirements of subparagraph III(c)(3).

V. Nothing in this section requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

354-A:13 Exemptions.

I. The provisions relating to unlawful housing discrimination shall not apply:

(a) To the sale or rental of any single-family house sold or rented by the owner, if such owner does not own more than one such single-family house at any one time, if such house is sold or rented:

(1) Without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person; and

(2) Without the publication, posting or mailing, after notice, of any advertising or written notice in violation of RSA 354-A:10, III above; but nothing in this paragraph shall prohibit the use of attorneys, escrow agents, abstracters, title companies, and other such professional assistance as necessary to perfect or transfer the title; or

(b) To the rental of a housing accommodation in a building which contains housing accommodations for not more than 3 families living independently of each other, if the owner or members of his family reside in one of such housing accommodations; or

(c) To the rental of a room or rooms in a housing accommodation with not more than 5 such rooms, if such rental is by the occupant of the housing accommodation or by the owner of the housing accommodation and the owner or members of the owner's family reside in such housing accommodation.

II. Nothing in this chapter shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin.

III. Nothing in this chapter shall prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodging which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

354-A:14 Number of Occupants. Nothing in this chapter limits the applicability of any reasonable local, state or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling.

354-A:15 Housing for Older Persons. No provisions in this chapter regarding familial status applies with respect to housing for older persons. Housing for older persons means housing:

I. Provided under any state or federal program that the Secretary of the United States Department of Housing and Urban Development determines is specifically designed and operated to assist elderly persons as defined in the state or federal program;

II. Intended for, and solely occupied by, persons 62 years of age or older; or

III. Intended and operated for occupancy by at least one person 55 years or older per unit.

IV. In determining whether housing qualifies as housing for persons 55 years or older, the commission shall adopt rules which require at least the following factors:

(a) The existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and service is not practicable, that such housing is necessary to provide important housing opportunities for older persons;

(b) That at least 80 percent of the units are occupied by at least one person 55 years of age or older per unit; and

(c) The publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

V. Housing shall not fail to meet the requirements for housing for older persons by reason of:

(a) Persons residing in such housing as of September 13, 1988, who do not meet the age requirements of paragraphs II or III, provided, that new occupants of such housing meet the age requirements of paragraph II or III.

(b) Unoccupied units, provided, that such units are reserved for occupancy by persons who meet the age requirements of paragraph II or III.

VI. Any rule concerning the exemption available under this section shall be consistent with federal law. In adopting such rules, the commission shall be guided by applicable federal regulations and interpretations concerning housing for older persons under 42 U.S.C. section 3607(b).

Public Accommodations

354-A:16 Equal Access to Public Accommodations a Civil Right. The opportunity for every individual to have equal access to places of public accommodation without discrimination because of age, sex, race, creed, color, marital status, physical or mental disability or national origin is hereby recognized and declared to be a civil right.

354-A:17 Unlawful Discriminatory Practices in Public Accommodations. It shall be an unlawful discriminatory practice for any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, because of the age, sex, race, creed, color, marital status, physical or mental disability or national origin of any person, directly or indirectly, to refuse, withhold from or deny to such person any of the accommodations, advantages, facilities or privileges thereof; or, directly or indirectly, to publish, circulate, issue, display, post or mail any written or printed communication, notice or advertisement to the effect that any of the accommodations, advantages, facilities and privileges of any such place shall be refused, withheld from or denied to any person on account of age, sex, race, creed, color, marital status, physical or mental disability or national origin; or that the patronage or custom thereat of any person belonging to or purporting to be of any particular age, sex, race, creed, color, marital status, physical or mental disability or national origin is unwelcome, objectionable or acceptable, desired or solicited.

Exemption

354-A:18 Exemption for Religious Organizations. Nothing contained in this chapter shall be construed to bar any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, which is operated, supervised or controlled by or in connection with a religious organization, from limiting admission to or giving preference to persons of the same religion or denomination or from making such selection as is calculated by such organization to promote the religious principles for which it is established or maintained.

Retaliation

354-A:19 Retaliation and Required Records. It shall be an unlawful discriminatory practice for any person engaged in any activity to which this chapter applies to discharge, expel, or otherwise retaliate or discriminate against any person because he has opposed any practices forbidden under this chapter or because he has filed a complaint, testified or assisted in any proceeding under this chapter.

Records

354-A:20 Required Records. It shall not be an unlawful discriminatory practice to record any data required by law, or by the rules and regulations of any state or federal agency, provided such records are kept in good faith for the purpose of complying with law, and are not used for the purpose of discrimination in violation of this chapter.

Complaint Procedures and Review

354-A:21 Procedure on Complaints.

I.(a) Any person claiming to be aggrieved by an unlawful discriminatory practice may make, sign and file with the commission a verified complaint in writing which shall state the name and address of the person, employer, labor organization, employment agency or public accommodation alleged to have committed the unlawful discriminatory practice complained of and which shall set forth the particulars thereof and contain such other information as may be required by the commission. The attorney general or one of the commissioners may, in like manner, make, sign, and file such complaint.

(b) In connection with the filing of such complaint, the attorney general is authorized to take proof, issue subpoenas and administer oaths in the manner provided in the civil practice law and rules. Any employer whose employees, or some of them, refuse or threaten to refuse to cooperate with the provisions of this chapter, may file with the commission a verified complaint asking for assistance by conciliation or other remedial action.

II.(a) After the filing of any complaint, one of the commissioners designated by the chair shall make, with the assistance of the commission's staff, prompt investigation in connection therewith; during the course of the investigation, the commission shall encourage the parties to resolve their differences through settlement negotiations; and if such commissioner shall determine after such investigation that probable cause exists for crediting the allegations of the complaint, the commissioner shall immediately endeavor to eliminate the unlawful discriminatory practice complained of by conference, conciliation and persuasion. The members of the commission and its staff shall not disclose what has occurred in the course of such endeavors, provided that the commission may publish the facts in the case of any complaint which has been dismissed, and the terms of conciliation when the complaint has been so disposed of.

(b) In case of failure to eliminate an unlawful discriminatory practice complained of, or in advance thereof, if, in the judgment of the commissioner making the investigation, circumstances so warrant, the commissioner shall cause to be issued and served in the name of the commission, a written notice, together with a copy of

such complaint, as the same may have been amended, requiring the person, employer, labor organization or employment agency named in such complaint, hereinafter referred to as respondent, to answer charges of such complaint at a hearing before 3 members of the commission, designated by the chair and sitting as the commission, at a time and place to be fixed by the chair and specified in such notice. The place of any such hearing shall be the office of the commission or such other place as may be designated by it.

(c) The case in support of the complaint shall be presented before the commission by one of its attorneys or agents, and the commissioner who shall have previously made the investigation and caused the notice to be issued shall not participate in the hearing except as a witness, nor shall he participate in the subsequent deliberation of the commission in such case; and the aforesaid endeavors at conciliation shall not be received in evidence. The respondent shall file a written verified answer to the complaint and appear at such hearing in person or otherwise, with or without counsel, and submit testimony. In the discretion of the commission, the complainant may be allowed to intervene and present testimony in person or by counsel. The commission or the complainant shall have the power reasonably and fairly to amend any complaint, and the respondent shall have like power to amend his answer. The commission shall not be bound by the strict rules of evidence prevailing in courts of law or equity. The testimony taken at the hearing shall be under oath and transcribed at the request of any party. The cost of transcription shall be borne by the party requesting the transcript.

(d) If, upon all the evidence at the hearing, the commission shall find that a respondent has engaged in any unlawful discriminatory practice as defined in this chapter, the commission shall state its findings of fact and shall issue and cause to be served on such respondent an order requiring such respondent to cease and desist from such unlawful discriminatory practice and to take such affirmative action, including, but not limited to, hiring, reinstatement or upgrading of employees, with or without back pay, restoration to membership in any respondent labor organization, or the extension of full, equal and unsegregated accommodations, advantages, facilities and privileges to all persons, as in the judgment of the commission, will effectuate the purpose of this chapter and including a requirement for report of the manner of compliance. Such cease and desist orders for affirmative relief may be issued to operate prospectively.

(e) When issuing an order awarding back pay, the commission shall calculate the back pay award by determining the amount the complainant would have earned but for the unlawful discriminatory practice. The commission shall subtract from that amount any unem-

ployment compensation or interim earnings received by the complainant for the time period covered by the back pay award.

(f) If upon all the evidence the commission shall find that a respondent has not engaged in any such unlawful discriminatory practice, the commission shall state its findings of fact and shall issue and cause to be served on the complainant an order dismissing the said complaint as to such respondent. A copy of its order shall be delivered in all cases to the attorney general, and such other public officers as the commission deems relevant or proper. The commission shall establish rules of practice to govern, expedite and effectuate the foregoing procedure and its own actions thereunder.

III. Any complaint filed pursuant to this section by an aggrieved person must be filed within 180 days after the alleged act of discrimination. Any complaint filed pursuant to this section by the attorney general or one of the commissioners must be so filed within 180 days after the alleged unlawful discriminatory practice.

IV. In administering this section, the commission shall be exempt from the provisions of RSA 541-A:14, II, but shall act on all matters before it under this section in as expeditious a manner as the law permits.

354-A:22 Judicial Review and Enforcement.

I. Any complainant, respondent or other person aggrieved by such order of the commission may obtain judicial review of the order, and the commission may obtain an order of court for its enforcement, in a proceeding as provided in this section. Such proceeding shall be brought in the superior court of the state within any county in which the unlawful practice which is the subject of the commission's order occurs or in which any person required in the order to cease and desist from an unlawful practice or to take other affirmative action resides or transacts business.

II. Such proceeding shall be initiated by the filing of a petition in such court, together with a written transcript of the record upon the hearing before the commission, and issuance and service of an order of notice as in proceedings in equity. The court shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony and proceedings set forth in such transcript an order or decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the commission, with full power to issue injunctions against any respondent and to punish for contempt of court. No objection that has not been urged before the commission shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.

III. Any party may move the court to remit the case to the commission in the interests of justice for the purpose of adducing additional specified and material evidence and seeking findings thereon, provided he shows reasonable grounds for the failure to adduce such evidence before the commission. The findings of the commission as to the facts shall be conclusive if supported by sufficient evidence on the record considered as a whole. All such proceedings shall be heard and determined by the court as expeditiously as possible and shall take precedence over all other matters before it, except matters of like nature. The jurisdiction of the superior court shall be exclusive and its final order or decree shall be subject to review by the supreme court in the same manner and form and with the same effect as in appeals from a final order or decree in proceedings in equity.

IV. The commission's copy of the testimony shall be available at all reasonable times to all parties for examination and for the purposes of judicial review of the order of the commission. The review shall be heard on the record without requirement of printing. The commission may appear in court by one of its attorneys. A proceeding under this section when instituted by any complainant, respondent or other person aggrieved must be instituted within 30 days after the service of the order of the commission.

Miscellaneous Provisions

354-A:23 Posting of Commission Notices. Every person, employer, employment agency, labor union, real estate agency and rental office subject to this chapter shall post in a conspicuous place or places on his premises a notice to be prepared or approved by the commission, which shall set forth excerpts of this chapter and such other relevant information which the commission deems necessary to explain the chapter. Any employer, employment agency, real estate agency, rental office or labor union refusing to comply with the provisions of this section shall be guilty of a violation if a natural person, or guilty of a misdemeanor if any other person.

354-A:24 Criminal Penalty. Any person, employer, labor organization or employment agency, who or which shall willfully resist, prevent, impede or interfere with the commission or any of its members or representatives in the performance of duty under RSA 354-A, or shall willfully violate an order of the commission, shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person. Procedure for the review of the order shall not be deemed to be such willful conduct.

354-A:25 Construction. No provision of this chapter shall be deemed to supersede any other provision of law for the protection of minors or for the regulation of the employment of minors. The provi-

sions of this chapter shall be construed liberally for the accomplishment of the purposes thereof. Nothing contained in this chapter shall be deemed to repeal any of the provisions of the civil rights law or any other law of this state relating to discrimination because of age, sex, race, creed, color, marital status, physical or mental disability or national origin; but, as to acts declared unlawful by this chapter the procedure provided in this chapter shall, while pending, be exclusive and the final determination therein shall exclude any other action, civil or criminal, based on the same grievance of the individual concerned. If such individual institutes any action based on such grievance without resorting to the procedure provided in this chapter, such person may not subsequently resort to the procedure in this chapter, provided, however, that nothing in this section shall prevent any individual from applying for or receiving unemployment compensation while the procedure provided for in this chapter is pending or after the procedure provided in this chapter has been concluded. This section shall not prevent the commission for human rights from investigating and acting upon a complaint of discrimination when the complainant has also filed a claim for unemployment compensation in which the issue of illegal discrimination is raised.

354-A:26 Severability. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provisions or applications, and to this end the provisions of this chapter are severable.

2 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill reorganizes RSA 354-A.

This bill prohibits discrimination based on familial status in regard to fair housing. This bill also prohibits unlawful housing discriminatory practices, and sexual harassment.

This bill also permits settlement attempts during the investigative phase and increases the number of commissioners from 5 to 7.

This bill was requested by the state commission for human rights.

Question is on the adoption of the committee amendment.

Committee amendment adopted.

Ordered to third reading.

TAKEN OFF THE TABLE

Senator Currier moved that we have HB 527-FN-A an act licensing speech-language pathologists and making an appropriation therefor taken off the table.

Adopted.

HB 527-FN-A, an act licensing speech-language pathologists and making an appropriation therefor.

5852L

Amendment to HB 527-FN-A

Amend RSA 326-F:5, I as inserted by section 1 of the bill by replacing it with the following:

326-F:5 Licensure.

I. To be eligible for licensure by the board as a speech-language pathologist, the applicant shall:

(a) Make application to the board, upon a form prescribed by the board; and

(b) Pay to the board the appropriate application fee; and

(c) Possess at least a master's degree or equivalent in speech-language pathology from an educational institution approved by the board which consists of course work approved by the board and delineated in rules adopted by the board pursuant to 541-A; and

(d) Complete supervised clinical practicum experience at an educational institution or its cooperating programs, the content of which shall be approved by the board and delineated in rules adopted by the board pursuant to RSA 541-A; and

(e) Complete a postgraduate professional experience as approved by the board and described in rules adopted by the board pursuant to 541-A; and

(f) Pass an examination in speech-language pathology approved by the board; and

(g) Demonstrates sufficient evidence of good professional character and reliability to satisfy the board that he shall faithfully and conscientiously avoid professional misconduct and otherwise adhere to the requirements of this chapter and the board's rules.

(h) In cases of license renewal after a period of nonrenewal of less than 5 years, pay to the board a restoration fee consisting of the current renewal fee plus any late fee set by rules adopted by the board pursuant to RSA 541-A and submit such evidence of continued professional competence and eligibility for licensure as the board may require.

Amend RSA 326-F:6 as inserted by section 1 of the bill by replacing it with the following:

326-F:6 Suspension or Revocation of License.

I. The board may revoke, suspend, caution, or impose probationary conditions upon any licensee under this chapter, after notice and the opportunity for a hearing, when the licensee is found by the board to have engaged in unprofessional conduct, which shall include:

(a) Behavior in the course of professional activity which has endangered or is likely to endanger the public health, safety, or welfare.

(b) The use of fraud, misrepresentation, or concealment of material facts in applying for any license or privilege from the board or any other professional licensing or credentialing organization, health care provider, or employer.

(c) Gross or repeated negligence in practicing speech pathology or any speciality thereof.

(d) Unprofessional, dishonest or unethical conduct, including, but not limited to, conduct which violates the American Speech-Language-Hearing Association's code of ethics.

(e) Violation of any provisions of this chapter or rules adopted by the board pursuant to RSA 541-A.

(f) Conviction of a felony by a court of competent jurisdiction, or conviction of any crime if the board finds the guilty conduct to have a direct bearing on the ability to serve the public as a speech language pathologist.

(g) Unethical conduct as defined by the board with reference to the American Speech-Language-Hearing Association's code of ethics.

II. A licensee or applicant aggrieved by a final decision of the board under this section may appeal in accordance with RSA 541.

Amend the introductory paragraph of RSA 326-F:7 as inserted by section 1 of the bill by replacing it with the following:

326-F:7 Reinstatement after Suspension. A speech pathologist seeking license reinstatement after suspension of a license in this state shall submit the following to the board:

Amend RSA 326-F:8 as inserted by section 1 of the bill by inserting after paragraph IV the following new paragraph:

V. Any person who fails to renew his license by the end of the 30-day grace period as provided in paragraph II may have his license reinstated as long as he:

(a) Submits an application for reinstatement to the board within 5 years after the expiration date of the license; and

(b) Meets the requirements established by the board as conditions for license renewal.

Amend the introductory paragraph of RSA 326-F:10, II as inserted by section 1 of the bill by replacing it with the following:

II. The board may waive the education, practicum, and professional experience requirements for applicants who:

Amend RSA 326-F:11, I as inserted by section 1 of the bill by replacing it with the following:

I. The purpose of a provisional license is to permit an individual to practice speech-language pathology while completing the post-graduate professional experience as required by this chapter. Any person holding a provisional license shall be authorized to practice speech-language pathology provided the person is working under the supervision of a person fully licensed by this state in accordance with this chapter. A provisional license for a clinical fellowship year is limited to one year for a full-time employee and 3 years for part-time employees. A provisional license shall expire automatically as a matter of law on the date stated thereon by the board.

Amend RSA 326-F:12 as inserted by section 1 of the bill by replacing it with the following:

326-F:12 Interim License.

I. A temporary license may be granted for 120 days if a person has moved to this state from another state and holds a license with comparable requirements. If a person has the national Certification of Clinical Competence status, a temporary license may be granted to allow the person to work while the administrative work is being completed, but application for licensure shall have occurred prior to beginning employment.

II. A temporary license for Clinical Fellowship Year is limited to 3 years for part-time employees. Supervision shall be conducted by a person licensed under this chapter.

III. A temporary license issued under this section shall expire automatically as a matter of law on the date stated thereon by the board.

Amend RSA 326-F:14, V as inserted by section 1 of this act by replacing it with the following:

V. Procedures for investigations and hearings.

Amend RSA 326-F as inserted by section 1 of the bill by inserting after RSA 326-F:14 the following and renumbering RSA 326-F:15 to read as RSA 326-F:19:

326-F:15 Immunity from Civil Action. No civil action shall be maintained against the board or any member thereof or its agents or employees. No civil action shall be maintained against any organization or its members or against any other person for or by reasons of any good faith statement, report, communication, or testimony to the board or determination by the board in relation to proceedings under this chapter.

326-F:16 Investigatory Powers of the Board; Complaints.

I. The board may investigate possible misconduct by licensees and any other matters governed by the provisions of this chapter. Investigations may be conducted with or without the issuance of a board order setting forth the general scope of the investigation. Board investigations and any information obtained by the board pursuant to such investigations shall be exempt from the public disclosure provisions of RSA 91-A, unless such information subsequently becomes the subject of a public disciplinary hearing. However, the board may disclose information obtained in an investigation to law enforcement or health licensing agencies in this state or any other jurisdiction, or in accordance with specific statutory requirements or court orders.

II. The board may appoint legal counsel, speech-language pathology experts, hearing officers or other investigators to assist with any investigation and with adjudicatory hearings.

III. The board may commence a formal or informal investigation, or an adjudicative hearing, concerning allegations of misconduct and other matters within the scope of this chapter on its own motion or upon written complaint of any person which charges that a person licensed by the board has committed unprofessional conduct under RSA 326-F:6, I, whenever it has a reasonable basis for doing so. The type of procedure chosen shall be a matter reserved to the discretion of the board. Investigations may be conducted on an ex parte basis.

IV.(a) The board may administer oaths or affirmations, preserve testimony, and issue subpoenas for witnesses and for documents during any formal investigation or adjudicatory hearing. The board may also subpoena client records, as provided in paragraph V, during formal investigations.

(b) The board shall serve any subpoena not covered by paragraph V in accordance with the procedures and fee schedules established by the superior court, except that:

(1) Any person licensed by the board shall not be entitled to a witness fee or mileage expenses for travel within the state.

(2) The board shall not be required to tender witness fees and mileage expenses in advance if the subpoena is annotated "fees guaranteed by the New Hampshire board of speech-language pathology."

(3) The respondent shall be allowed at least 48 hours' to comply with a subpoena issued under this chapter.

V. The board may at any time subpoena client records from its licensees and client records from hospitals and other health care providers or facilities licensed by or certified in this state. Such subpoenas shall be served by certified mail or by personal delivery to the

address shown on the licensee's current license, and no witness or other fee shall be required. A minimum of 15 days' advance notice shall be allowed for complying with a subpoena duces tecum issued under this chapter.

VI. All licensees and any persons applying for licensure or any other privilege granted by the board shall have the duty to keep the board informed of their current business and residence addresses. A licensee shall receive adequate notice of any hearing or other action taken under this chapter if notice is mailed in a timely fashion to the most recent home or business address furnished to the board by the licensee.

VII. Any complaint of licensee misconduct shall be in writing and shall be treated as a petition for the commencement of a disciplinary hearing. The board shall fairly investigate all complaints to the extent and in the manner warranted by the allegations. Any complaint which fails to state a cause of action may be summarily denied in whole or in part. Some or all of the allegations in a complaint may be consolidated with another complaint or with issues which the board wishes to investigate or hear on its own motion. If an investigation of a complaint results in an offer of settlement by the licensee, the board may settle the allegations against the licensee without the consent of a complainant, provided that material facts are not in dispute and the complainant is given an opportunity to comment upon the terms of the proposed settlement.

VIII. At the commencement of an adjudicatory proceeding, or at any time during a formal or informal investigation, and without issuing a subpoena, the board may mail a statement of the issues being investigated or heard to any licensee or other person who is a proper subject of inquiry and require the licensee or other person to provide a detailed and good faith written response to the allegations identified by the board. The licensee or other person shall provide complete copies of his office records concerning any patient whose treatment is relevant to the matters at issue. The licensee shall respond to such request within a reasonable time period of not less than 15 days, as the board may specify in its written request.

326-F:17 Hearings; Decisions; and Appeals.

I. Any adjudicatory hearing shall be an open public proceeding. Any member of the board may preside at such a hearing and may issue oaths or affirmations to witnesses.

II. The board shall furnish the licensee or any other respondent at least 15 days' written notice of the date, time and place of a hearing, except as otherwise provided in this chapter. Such notice shall include an itemization of the issues to be heard, and, in the case of a disciplinary hearing, a statement as to whether the action has been initiated by a written complaint or upon the board's own motion, or

both. If a written complaint is involved, the complainant shall also receive a copy of the hearing notice and shall be provided with a reasonable opportunity to intervene as a party.

III. Any person appearing at a board hearing or investigation may be represented by legal counsel, but the board shall have no obligation or authority to appoint or provide an attorney to any person appearing at a board hearing or investigation.

IV. The board may at any time dispose of issues or allegations at an adjudicatory hearing, or an investigation, by default, settlement agreement, or consent order, by issuing an order of dismissal for failing to state a proper basis for disciplinary action or by summary judgment order based upon undisputed material facts. In disciplinary hearings, the board may hold prehearing conferences which shall be exempt from the provisions of RSA 91-A, but all final disciplinary actions, including those which occur without holding a public hearing, shall be available to the public.

V. Adjudicatory decisions and final disciplinary actions of the board shall be made by a majority of the board members participating in the decision. Such decisions shall not be made public until they have been reduced to writing, signed by a representative of the board, and served upon the parties.

VI. Decisions of the board may be appealed to the supreme court pursuant to RSA 541. The court shall not stay any disciplinary sanction imposed by the board pending appeal, if the board has determined that the sanction is required for the public safety and welfare. Any person whose license has been revoked shall comply with the licensure requirements of RSA 326-F:5 relative to license reinstatement.

326-F:18 Temporary Suspension Where Imminent Threat. In cases involving imminent danger to life or health, the board may order suspension of a license or privilege granted under this chapter pending hearing for a period of no more than 60 days. In such cases, the basis for the board's finding of imminent danger to life or health shall be reduced to writing and combined with a hearing notice which complies with RSA 326-F:16, II and RSA 541-A:16, III. Notwithstanding the requirements of RSA 541-A:15, III, the board's hearing may commence as much as 30 days after the date of the order suspending the license. If the board does not commence the hearing within 30 days, the suspension order shall be automatically vacated, but a licensee shall be allowed additional time to prepare for or to complete a hearing under this paragraph only by agreeing to a further suspension commensurate with the additional time extended.

Amend RSA 326-F as inserted by section 1 of the bill by deleting RSA 326-F:9 and renumbering RSA 326-F:10-19 to read as RSA 326-F:9-18, respectively.

Question is on the adoption of the committee amendment.

Committee amendment adopted.

SENATOR CURRIER: The reason that this bill was put on the table, was because there was clarification needed in regard to the language with specific reference to the Attorney General's Office in making consistent the language with regard to how all of these boards interact and so forth with the Administrative Rules and the 541 process. Senator Fraser will go into a little bit more detail, on that and then Senator Hollingworth will speak after that. This is, I guess, a floor amendment from the Executive Departments committee. I move ought to pass, and I now defer to Senator Fraser.

SENATOR FRASER: Mr. President, I am privileged to be one of the sponsors of HB 527. This is a bill requiring the licensing of speech pathologists. The bill has a lot of merit, it does the things that the House wanted it to do. There were four hearings in the House, and I am just going to give you some of the things that this bill does. It refers to the appropriate medical referral service, these people deal directly with patients. What is going on today is a lack of treatment; and as a result of it, we feel that these people should be licensed. I think, Mr. President, if anybody was at the public hearing and listened to the testimony of some of the patients that are being treated by speech pathologists and how strongly they feel about this bill, there would be no doubt in anyones mind that we ought to pursue the matter to its full extent, and I urge the passage of this bill at this time.

SENATOR W. KING: Senator Fraser, in licensing speech pathologists, obviously, people are not going to be able to practice if they are not licensed under this current law, correct?

SENATOR FRASER: Correct.

SENATOR W. KING: So this will mean that schools who today are able to employ speech pathologists who may not qualify under the new laws, will have to then hire instead, a licensed speech pathologist?

SENATOR FRASER: That is TAPE INAUDIBLE.

SENATOR HUMPHREY: Mr. President, I offer a floor amendment. It is being distributed. I want to underline the concern just raised by Senator King. I am not sure if he agrees with me or not, but it is focused on the provision of the bill that concerns me in which I am

seeking to amend. If the Senators care to turn to page five of the bill. Part of the bill is not affected by the committee amendment.

Recess.

Out of recess.

SENATOR HUMPHREY: My concern with this remains with the provision on page five of the bill, which part of the bill is unamended, and which says as follows: 'No person shall practice speech language pathology or represent himself as a speech language pathologist in this state unless such person is licensed in accordance with the provision of this chapter'. And further . . . well, let me address that point first. The amendment which I am offering strikes this provision so that the rest of the bill remains. In other words, we set up a licensing procedure with an oversight board and all of the clap-trap that goes along with this stuff as a rule, but we removed the provision that requires everybody who cares to engage in this practice to be licensed. Those who want to be licensed may advertise themselves as being licensed. Those who are not licensed, may not represent themselves as being licensed, but they may continue to practice. To me, it is a scope of government issue, it is a freedom of freedom issue. How far do you go in licensing every group that comes to us that wants to set up a cartel to exclude competition, that is what it comes down to, it seems to me. How far do you want to go in cooperation with some of these groups to exclude competition? This is self serving from my point of view. Fine, set up licensing, license those that want to be licensed, but don't exclude those who don't want to be licensed. We are not talking about surgeons here, we are talking about speech pathologists. Now just to illustrate my point that proponents want to lockout anybody and everybody who does not care to be licensed, I ask Senators to turn their attention to III on page five which says as follows, now note the inclusiveness, the airtightness of this: "no person may represent himself or his services by using the words, speech pathologist, unless the person has been duly licensed as a speech pathologist." Nor may any person use the word "speech pathology unless licensed, speech therapist unless licensed, speech therapy unless licensed, speech correctionist unless licensed, speech correction unless licensed, speech clinician", I need one myself, "language pathologist unless licensed, language pathology unless licensed and etc or any similar titles or description unless the person has been licensed". Nobody is going to be able to do anything that has to do with the tongue, unless the person is licensed. Maybe not even kissing. This is baloney. This is how statism progresses, there is no need for it. My amendment fixes the bill. Those who want to be licensed, may be licensed and hold themselves to very high standards, and god bless them, and they may advertise

themselves as licensed. Those who don't had better not use the word license or licensed, but they may practice. Freedom, that is what it is about and reasonable proportions of government, that is what it is about. So I hope that Senators will adopt this amendment and pass this bill.

The Senator Humphrey offered a floor amendment.

5988L

Floor Amendment to HB 527-FN-A

Amend RSA 326-F:3 as inserted by section 1 of the bill by replacing it with the following:

I. The board shall license each applicant who satisfies the requirements of this chapter. Upon payment of a license fee, the board shall issue to such person a certificate of licensure, which shall be primary evidence of the right to practice as a "speech-language pathologist."

II. No person may represent himself or his services in the practice of speech pathology by using the words license or licensed, unless the person has been duly licensed as a speech-language pathologist.

SENATOR CURRIER: I rise in opposition to the pending motion as Chairman of the Executive Departments committee. The delicate balance between licensure and certification is somewhat disrupted by Senator Humphrey's well intended amendment with regard to the speech pathologist bill. Licensure has its own permitters as does certification. In this amendment, this floor amendment, we are mixing and matching certification and licensure, and the thing is that I would urge the full Senate to vote down this floor amendment and go with the original committee report as amended.

SENATOR HUMPHREY: Just so that no one is confused, Senator, do you agree or do you not agree that this bill as it now stands before us requires everyone who wants to engage in speech pathology to be licensed? There isn't anything in here about certification, the word is licensed, and nobody may practice without a license?

SENATOR CURRIER: Senator, the answer to your question is with all due respect, as a member of that committee, you should know that licensure yes in fact means that, and certification doesn't. If you really want a certification bill, you should come through with a complete amendment dealing with certification and not this. This amendment is mixing and matching licensing and certification. We have to keep it consistent. Either it is going to be certification or it is going to be licensure, it can't be both.

SENATOR HUMPHREY: The word certification appears nowhere in this bill or in my amendment. This is a bill about licensing and the amendment excludes those who don't care to be licensed.

SENATOR SHAHEEN: Senator Humphrey, while I recognize your philosophical concern about his bill, I am just curious about whether you heard testimony from other people that they are opposed to the bill in its current form, because I have only heard from people who are supporting it. Could you outline where that opposition comes from?

SENATOR HUMPHREY: Yes. Well, I will make an offer to the Senator in response. If she can tell me why the status quo, how we have managed to get along with the status quo for all of these years without an emergency from falling us, I will answer her question.

SENATOR SHAHEEN: Is that a rhetorical response?

SENATOR HUMPHREY: It is a standby. I can't find it.

SENATOR SHAHEEN: Is it . . .

SENATOR HUMPHREY: It is a logical response. A logical response.

SENATOR SHAHEEN: Can I make the assumption from that, that you are not prepared to, or that you can't outline for me where the opposition comes from?

SENATOR HUMPHREY: It comes from . . . you are quite right. The opposition comes from a certain construct about the proper confines of government versus freedom. That is a very important issue.

SENATOR SHAHEEN: Thank you.

SENATOR W. KING: This is one of the rare instances when Senator Humphrey and I agree philosophically on an issue; however, let me say that this amendment confuses an already confusing situation. The fact is that the general public is already confused enough about the difference between certification and licensing. This amendment for all intents and purposes, makes this bill a certification bill. Now that is the way that I would like to see it frankly, but not in a way that is going to be more confusing to people; it should make it a certification bill without calling it licensure, so I would urge the members of the Senate, to not adopt the amendment.

SENATOR HOLLINGWORTH: I would like to ask the Senate to vote for this unamended bill. This bill has been in the making for three years. It has had five public hearings alone this year, four in the House and one in the Senate. Not one person has spoken in opposition to this bill, in any of those hearings. And today, the other

day we heard Senator Humphrey say that he didn't like this bill and he wanted to table it because it was government interference. To me, I think, that this amendment is just a way of confusing the issue more to defeat the bill. So I would ask that you do not support the amendment and that you vote ought to pass on this. There are 41 states that require licenses to render speech therapy. The Attorney General has reviewed this and three House committees and one Senate committee has reviewed this; and I think that they have done an excellent job, and I hope that you will support this bill, unamended.

SENATOR HEATH: Senator Hollingworth, have I missed something? I am trying to figure out where there is a public endangerment here and I haven't heard any evidence of it. So my only conclusion is that this is a restraint of trade issue, which is typical of licensure, can you cite any past public endangerment that we need to go to this extreme to give some people some exclusive licenses to practice?

SENATOR HOLLINGWORTH: I wouldn't begin to try and do that. I think that the people who sat on the committees in both the House and the Senate and who have worked on this bill have heard all of the evidence. I did not sit on that committee, so I cannot answer your question . . .

SENATOR HEATH: Could you refer me to someone who could?

SENATOR HOLLINGWORTH: Well, I am sure that one of the committee members would be glad too.

SENATOR FRASER: Senator Heath, this whole bill has to do with consumer protection . . .

SENATOR HEATH: What . . .

SENATOR FRASER: Wait, let me answer the question . . .

SENATOR HEATH: Alright, do you remember the question?

SENATOR FRASER: Yes, what does this have to do . . . this is a restraint of trade bill and how was the public not protected, today.

SENATOR HEATH: The question was . . .

SENATOR FRASER: Today, okay?

SENATOR HEATH: Okay.

SENATOR FRASER: I am going to try and answer your question. Today where there is no licensure provisions, we have a lot of people out there who hold themselves out as speech pathologists and they are ripping the public off . . .

SENATOR HEATH: How?

SENATOR FRASER: What we are trying to do is to have some licensure proceedings in place so that people have to satisfy certain minimal requirements in order to be able to say that they are licensed and that they are qualified to provide these services. You have to understand that these people deal directly with patients, with people, and they have the ability to diagnose, so this is a bill to protect those citizens, those innocents who are seeking the services of a legitimate speech pathologist who may not have that opportunity available to them.

SENATOR HEATH: Can you cite one instance of harm, Senator Fraser? Do you yield?

SENATOR FRASER: Yeah, sure. What was the question?

SENATOR HEATH: Can you cite one instance of harm that has been verified by anybody?

SENATOR FRASER: One instance of harm?

SENATOR HEATH: Yes.

SENATOR FRASER: No, I can't. I can cite . . . if you were at the public hearing; and I wish that Senator Humphrey was there, because I don't think he would be so serious and strenuously objecting. If you listened to the people who came, who have been treated by legitimate speech pathologist, and these are people who have been victims of shock, who have gone to people who have been legitimate, and who know what they are talking about, and how those people have been helped by these same speech pathologists, those are the people that want this bill. But, no, I didn't . . . by the way, there were four hearings in the House and there was one in the Senate and there was never one item of objection to this bill, everyone supported it.

SENATOR NELSON: Let us begin, I will make this brief. Let us begin by defining licensing, okay? Licensing describes the process, now get this, by which the government grants permission to an individual to engage in a given occupation upon finding that the applicant has obtained the minimum degree of competency necessary to insure that the public health, safety, and welfare will be reasonably protected. Now maybe what we ought to do is let someone get hurt, have some problem, choke to death, then we will license them. Number two, in the state of New Hampshire, we have people licensed to cut a tree, you cannot get your fingernails manicured, you cannot get nail polish on those nails, without a license. You can't get your face done. If you go and get your face touched in facials, you can't get it without a license. Are you ready for this? You can't even get your hair cut in the state of New Hampshire without what? A license. So

let us make it clear what we are talking about here. Let us make one other thing clear, this is a lot broader than a classroom. As Senator Fraser said, these people work in hospital settings with people who have had strokes, people who have cerebral palsy, they are working with people who have just more than a speech problem or stuttering, they are dealing with medical situations in which they work with a team, they are part of a team. Restraint of trade, well perhaps that everytime that we want to do something around here it is a restraint-of-trade. If we want to set minimum standards, now we are saying it is a restraint-of-trade. And not to mention what a person who sells real estate has to be licensed, you have to take classes, you have got to take courses, and you have to pass the test. You can't even touch a piece of land in this state unless you have something, yet we want to say go and take your money and we won't license you. Furthermore, 41 states, did you hear him? Forty-one, I did my undergraduate degree in speech impairment at Boston University, I chose not to go on in that profession. It is a national organization that oversees that, you do your training in the hospitals with sick patients or else you can do them in the schools. This is a much broader situation than you would assume. To talk about the intrusion of government is certainly okay, but the other side of the argument is protection by government.

SENATOR HEATH: All of those things that Senator Nelson said are true, but they don't license your butcher who is handling the meat that you use, and they license your mechanic who is handling the car that you are driving. They will be in because they all want to have a license to keep somebody else out of their profession and we don't have any harm shown here. Nobody can cite a single case. People don't go into speech pathology for the fun of it. But this is a way to grandfather in a certain few people and to make the hoops more difficult for somebody else to get into the business; and that is what real estate licensing started, and a whole bunch of others have followed in pursuit, and that is to keep people out of certain businesses as well as to set up a board that allegedly oversees. When do you ever hear of them pulling licenses in any of this stuff? This is restraint-of-trade. And we will license every activity, and the state will collect a fee off of it, and they will run some of their bureaucracies off of the fees. This is foolish that we keep going down this road of licensing every individual to do every activity in the economic scene in New Hampshire, and I think that it is well done away with.

SENATOR HUMPHREY: Senator Heath, would you agree that maybe the ideal outcome of all of this is to ask the supporters, the proponents to come back next year with a certification bill, not something as draconian as licensing, but a certification bill?

SENATOR HEATH: Either next year or the next 10 or 15 minutes, I would go either way.

SENATOR HUMPHREY: Well, I think that would be the ideal outcome as well, or second best, I think that we ought to just pass this amendment; but I think that I can count votes, and I doubt that the votes are there.

Floor amendment fails.

Senator Humphrey moved to have HB 527-FN-A an act licensing speech-language pathologists and making an appropriation therefor laid on the table.

Recess.

Out of recess.

A roll call was requested by Senator Humphrey.

Seconded by Senator Nelson.

The following Senators voted Yes: Heath, Roberge, Humphrey.

The following Senators voted No: Oleson, W. King, Fraser, Hough, Currier, Disnard, Blaisdell, Bass, Pressly, Nelson, Colantuono, McLane, Podles, J. King, Russman, St. Jean, Shaheen, Delahunty, Hollingworth, Cohen.

Yeas 3

Nays 20

Motion to table HB 527 fails.

Ordered to third reading.

SENATOR MCLANE: Mr. President, I have an parliamentary inquiry. I admire our President of the Senate. There is a party being given for him; and we have been here since eleven o'clock, and I think that we all need a break. I would like to move that we take a half-hour recess.

Recess.

Out of recess.

SENATOR DELAHUNTY (In the Chair): There are several bills still on the table, and I think that there is legislation being drawn up or prepared for redistricting and it will not be ready for another 45 minutes. We could take care of the bills that are on the table, and those of you who do wish to go over, I think, could go over, and we can deal with the bills that are on the table.

SENATOR MCLANE: If we cannot vote on redistricting for another 45 minutes, why can't we recess?

SENATOR DELAHUNTY (In the Chair): The motion is that Senator McLane has moved for a 45 minute recess. I am going to call for a division.

SENATOR SHAHEEN: What are we doing?

SENATOR HUMPHREY: I would like to speak to the motion.

SENATOR DELAHUNTY (In the Chair): Senator McLane has made a motion to recess for 45 minutes; Senator Humphrey has requested to speak to the motion before we take the vote, and I am going to request a division vote.

SENATOR SHAHEEN: He is going to speak to the motion to recess?

SENATOR DELAHUNTY (In the Chair): Yes, Senator.

SENATOR SHAHEEN: Okay. Well the question that I have is that if we support the motion to recess, are we going to come back and take all of the bills off of the table? We have to do that, right? Because they have to come off of the table tonight?

SENATOR DELAHUNTY (In the Chair): The question is: do we continue on and take the bills off of the table now, and those who care to go to the reception may leave to go, but that we can continue on with the business at hand or do we recess for 45 minutes and come back and take the bills off of the table and deal with redistricting at that time?

SENATOR SHAHEEN: Thank you.

SENATOR HUMPHREY: Mr. President, I want to speak against the motion to recess. Parties are fun and politics are important, but by gosh there are some things that are even more important than that, like the wives and children who are waiting for us at home. Let us do our business and get the heck out of this place.

Division vote requested.

Yeas 2

Nays 21

The motion to recess fails.

TAKEN OFF THE TABLE

Senator Bass moved that we have HB 1104-FN an act relative to capitalization of the affordable housing fund taken off the table.

Adopted.

HB 1104-FN, an act relative to capitalization of the affordable housing fund.

5960L**Amendment to HB 1104-FN**

Amend the title of the bill by replacing it with the following:

AN ACT

relative to capitalization of the affordable housing fund
and relative to the housing finance authority.

Amend the bill by replacing all after section 1 with the following:

2 Purpose. The general court finds that conventional private financing mechanisms may fail to ensure that the state's citizens are able to maintain stable housing arrangements when property values and personal income are declining. The general court further finds that eligible persons and families may require assistance from the state in order to obtain optional financial arrangements from private entities. It is hereby declared that the governor and council, the state treasurer, and the housing finance authority shall be performing a governmental function, advancing a public purpose, and conferring a public benefit in carrying out the provisions of section 3 of this act.

3 New Subdivision; Housing Security Program. Amend RSA 204-C by inserting after section 79 the following new subdivision:

Housing Security Program

204-C:80 Purpose. The purpose of this subdivision is to assist eligible persons and families to obtain private financing necessary to maintain decent, safe, sanitary and affordable housing. It is the intent of the general court that this purpose be achieved through the issuance of guarantees in support of certain home mortgage loans.

I. Upon application from a lender operating in this state in such form as the authority may require, the authority may issue, or commit itself to issue, a certificate of guarantee to the lender, or its assigns, of a principal residence loan. The total principal amount of any principal residence loan guaranteed under this section shall not exceed the sum of:

(a) Ten percent of the fair market value of the principal residence as determined by an independent third-party appraisal commissioned by the lender in connection with approving the loan;

(b) The amount of any payments of principal and interest which are in arrears under the terms of the existing mortgage loan incurred to acquire, construct or substantially improve such principal residence; and

(c) The amount of any local property taxes assessed with respect to such principal residence which have not been paid, and interest chargeable against such delinquent taxes.

II. The state's guarantee of a loan under this section shall be evidenced by a guarantee certificate issued by the authority on behalf of the state. Such guarantee certificate shall contain such terms and conditions as the authority may impose, including, without limitation, restrictions on the use of loan proceeds, provisions for reimbursement of the state if the state is required to honor the guarantee, appropriate financial covenants, and provisions for the establishment of reserves. In addition, as a condition of awarding any guarantee, the state shall be subrogated to all of the rights and security of the lender to the extent it honors the guarantee.

III. The full faith and credit of the state shall be pledged in support of any such guarantee, provided that the aggregate amount of principal residence loans guaranteed under this section shall not exceed \$10,000,000. In satisfaction of that pledge, the state treasurer shall advance to the authority from available cash in the treasury or from proceeds of bonds or notes amounts as may be requested from time to time by the authority to enable it to perform all guarantee obligations punctually and in accordance with their terms. The authority shall request such advances from time to time as additional amounts are required for such purpose.

IV. For the purposes of this section:

(a) "Principal residence" means a residence that is the primary residence of the eligible persons and families and does not include a residence that is used (1) primarily in a trade or business, (2) as an investment property or (3) as a recreational, vacation or second home. The term principal residence does include structures containing not more than 4 residential units, one of which is owner occupied.

(b) "Principal residence loan" means any loan which meets the following requirements:

(1) Repayment of principal and interest on the loan is secured by a first mortgage lien on the borrower's principal residence;

(2) The loan replaces or refinances existing indebtedness which was incurred to acquire, construct or substantially improve the borrower's principal residence; and

(3) The principal amount of the loan does not exceed 100 percent of the median purchase price of an existing single family home located in New Hampshire, as determined by the authority based on statistics periodically published by the federal government.

204-C:82 Guarantee Fund Established. In order to provide additional security to the state for any guarantee made under RSA 204-C:81, there is hereby established a guarantee fund which shall be held by the authority apart from all of its other funds, and which shall be deemed irrevocably pledged to secure all loans guaranteed under RSA 204-C:81. The authority shall be under no obligation to use its own funds for this purpose, and is hereby authorized to de-

posit moneys appropriated by the general court to support the housing security programs in such fund. If a state guarantee is called upon to be honored the authority shall draw upon such fund for the purpose of honoring such guarantee, and only when amounts in the fund are exhausted shall the state treasurer be required to advance proceeds pursuant to RSA 204-C:81, II, to perform the guarantee obligations. Interest earned on amounts invested in the fund shall be accumulated therein and credited thereto or paid to the authority upon its discretion. If at any time the amount in the fund exceeds 10 percent of the guaranteed portion of the principal of all loans guaranteed under RSA 204-C:81, or such higher amount as may be determined by the authority, the authority may withdraw the excess. The authority may enter into trust agreements, depository agreements, or other arrangements with one or more state banks in order to carry out the purposes of this section.

204-C:84 Programs for Public Purpose; Required Findings. The authority shall not take any action described in RSA 204-C:81 unless it makes the following findings, provided that the authority's board of directors may delegate this responsibility to the authority's executive director:

I. The proposed action will serve a public use and provide a public benefit.

II. The proposed action is within the policy of, and the authority conferred by, this subdivision.

III. In the case of a guarantee to be awarded under RSA 204-C:81, the proposed award of a guarantee will contribute significantly to the ability of a resident of this state to refinance successfully a principal residence loan.

IV. In the case of a loan to be made under RSA 204-C:82, the proposed loan will contribute significantly to the ability of a resident of this state to maintain current housing.

V. Reasonable and appropriate measures have been taken by the borrower to secure funds or assistance other than the guarantee or loan to be provided under RSA 204-C:81 and 204-C:82 and such measures have been unsuccessful.

VI. Reasonable and appropriate measures have been taken to minimize risk of loss to the state and to ensure that any private benefit from the proposed action will be only incidental to the public purpose served thereby.

204-C:85 Rulemaking. Notwithstanding RSA 204-C:53, the authority shall adopt rules under RSA 541-A to implement the provisions of this subdivision. These rules shall include, but not be limited to:

I. Eligibility standards for loan guarantees issued under RSA 204-C:81. Such standards shall include maximum income and asset limits for eligible participants.

II. Eligibility standards for housing assistance loans made under RSA 204-C:82. These standards shall include maximum income and asset limits for eligible borrowers.

III. The conditions and terms of loan guarantees issued and loan made under this subdivision.

IV. Such other matters necessary to implement the provisions of this subdivision.

4 Exemption. The legislature declares that there is an urgent need for the programs created by section 3 of this act. Therefore, notwithstanding any provisions of RSA 541-A to the contrary, the authority may adopt rules to implement the provisions of section 3 of this act pursuant to RSA 204-C:53. The rules authorized by this section shall remain effective until such time as the authority adopts superseding rules under RSA 541-A. The authority shall commence rulemaking under RSA 541-A implementing the provisions of section 3 of this act no later than December 31, 1993.

5 Appropriation; Housing Finance Authority; Housing Security Program. There is hereby appropriated to the housing finance authority the sum of \$1,000,000 for the purpose of enabling the authority to fund the guarantee fund established under RSA 204-C:82.

6 Bonds Authorized. To provide funds for the appropriation made in section 5 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$1,000,000 and for said purpose shall issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A. The payment of principal and interest on the bonds or notes issued under this section shall be made when due from the general funds of the state.

7 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill allows the New Hampshire housing finance authority to allocate fees as matching funds for federal housing programs.

The bill also establishes a program, to be administered by the authority, to guarantee certain home mortgages for low and moderate income persons and families.

SENATOR BASS: Mr. President, the Clerk will inform you that at the time that the bill was placed on the table, the pending motion was ought to pass with amendment. I have a parliamentary question, did we adopt the amendment or not?

SENATOR DELAHUNTY (In the Chair): No, Senator Bass, we did not take action on the bill.

SENATOR BASS: So not adopting the amendment, is the proper procedure to adopt the committee amendment and then address a floor amendment? Mr. President, I urge that we get on with it.

Committee amendment adopted.

SENATOR BASS: Mr. President, the amendment is on page 25 of the calendar. Mr. President, I would like to propose floor amendment #5991L. It has been passed out. If I could, Mr. President, this amendment essentially repeats the amendment that appears on page 25 of the calendar. The change is that sections five and six, which is the appropriation in the bonding, is removed and in lieu thereof, is added paragraph V, which appears on page four and that paragraph simply says that the first mortgage lienholder of the loan amount to be refinanced shall not charge the borrower points in refinancing a loan under this subdivision, such lienholders shall pay to the Housing Finance Authority an amount equal to 10 percent of the amount guaranteed by the state on each refinance loan for the purpose of covering defaults and the administration of the Housing Security Program. This reflects the content of the speech that I made earlier and I think that it represents a fairer and reasonable approach to this problem that involves a participation on the part of the lending institutions which stand to benefit from the passage of this bill and from the homeowners who will certainly benefit by being guaranteed not having to pay one, two or three points which is the norm, for refinancing. This is a consumer oriented amendment. I know that the banking industry has probably spent the last four hours agonizing over how to kill this amendment, but I urge the Senate to use reason and act fairly and adopt this amendment.

Senator Bass offered a floor amendment.

5991L

Floor Amendment to HB 1104-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to capitalization of the affordable housing fund
and relative to the housing finance authority.

Amend the bill by replacing all after section 1 with the following:

2 Purpose. The general court finds that conventional private financing mechanisms may fail to ensure that the state's citizens are able to maintain stable housing arrangements when property values and personal income are declining. The general court further finds that eligible persons and families may require assistance from the

state in order to obtain optional financial arrangements from private entities. It is hereby declared that the governor and council, the state treasurer, and the housing finance authority shall be performing a governmental function, advancing a public purpose, and conferring a public benefit in carrying out the provisions of section 3 of this act.

3 New Subdivision; Housing Security Program. Amend RSA 204-C by inserting after section 79 the following new subdivision:

Housing Security Program

204-C:80 Purpose. The purpose of this subdivision is to assist eligible persons and families to obtain private financing necessary to maintain decent, safe, sanitary and affordable housing. It is the intent of the general court that this purpose be achieved through the issuance of guarantees in support of certain home mortgage loans.

204-C:81 Home Mortgage Guarantees.

I. Upon application from a lender operating in this state in such form as the authority may require, the authority may issue, or commit itself to issue, a certificate of guarantee to the lender, or its assigns, of a principal residence loan. The total principal amount of any principal residence loan guaranteed under this section shall not exceed the sum of:

(a) Ten percent of the fair market value of the principal residence as determined by an independent third-party appraisal commissioned by the lender in connection with approving the loan;

(b) The amount of any payments of principal and interest which are in arrears under the terms of the existing mortgage loan incurred to acquire, construct or substantially improve such principal residence; and

(c) The amount of any local property taxes assessed with respect to such principal residence which have not been paid, and interest chargeable against such delinquent taxes.

II. The state's guarantee of a loan under this section shall be evidenced by a guarantee certificate issued by the authority on behalf of the state. Such guarantee certificate shall contain such terms and conditions as the authority may impose, including, without limitation, restrictions on the use of loan proceeds, provisions for reimbursement of the state if the state is required to honor the guarantee, appropriate financial covenants, and provisions for the establishment of reserves. In addition, as a condition of awarding any guarantee, the state shall be subrogated to all of the rights and security of the lender to the extent it honors the guarantee.

III. The full faith and credit of the state shall be pledged in support of any such guarantee, provided that the aggregate amount of principal residence loans guaranteed under this section shall not ex-

ceed \$10,000,000. In satisfaction of that pledge, the state treasurer shall advance to the authority from available cash in the treasury or from proceeds of bonds or notes amounts as may be requested from time to time by the authority to enable it to perform all guarantee obligations punctually and in accordance with their terms. The authority shall request such advances from time to time as additional amounts are required for such purpose.

IV. For the purposes of this section:

(a) "Principal residence" means a residence that is the primary residence of the eligible persons and families and does not include a residence that is used (1) primarily in a trade or business, (2) as an investment property or (3) as a recreational, vacation or second home. The term principal residence does include structures containing not more than 4 residential units, one of which is owner occupied.

(b) "Principal residence loan" means any loan which meets the following requirements:

(1) Repayment of principal and interest on the loan is secured by a first mortgage lien on the borrower's principal residence;

(2) The loan replaces or refinances existing indebtedness which was incurred to acquire, construct or substantially improve the borrower's principal residence; and

(3) The principal amount of the loan does not exceed 100 percent of the median purchase price of an existing single family home located in New Hampshire, as determined by the authority based on statistics periodically published by the federal government.

V. The first mortgage lienholder of the loan amount to be refinanced shall not charge the borrower points in refinancing a loan under this subdivision. Such lienholder shall pay to the housing finance authority an amount equal to 10 percent of the amount guaranteed by the state on each refinanced loan for the purpose of covering defaults and the administration of the housing security program.

204-C:82 Guarantee Fund Established. In order to provide additional security to the state for any guarantee made under RSA 204-C:81, there is hereby established a guarantee fund which shall be held by the authority apart from all of its other funds, and which shall be deemed irrevocably pledged to secure all loans guaranteed under RSA 204-C:81. The authority shall be under no obligation to use its own funds for this purpose, and is hereby authorized to deposit moneys received from first mortgage lienholders under RSA 204-C:82, V in such fund. If a state guarantee is called upon to be honored the authority shall draw upon such fund for the purpose of honoring such guarantee, and only when amounts in the fund are exhausted shall the state treasurer be required to advance proceeds pursuant to RSA 204-C:81, II, to perform the guarantee obligations.

Interest earned on amounts invested in the fund shall be accumulated therein and credited thereto or paid to the authority upon its discretion. If at any time the amount in the fund exceeds 10 percent of the guaranteed portion of the principal of all loans guaranteed under RSA 204-C:81, or such higher amount as may be determined by the authority, the authority may withdraw the excess. The authority may enter into trust agreements, depository agreements, or other arrangements with one or more state banks in order to carry out the purposes of this section.

204-C:84 Programs for Public Purpose; Required Findings. The authority shall not take any action described in RSA 204-C:81 unless it makes the following findings, provided that the authority's board of directors may delegate this responsibility to the authority's executive director:

I. The proposed action will serve a public use and provide a public benefit.

II. The proposed action is within the policy of, and the authority conferred by, this subdivision.

III. In the case of a guarantee to be awarded under RSA 204-C:81, the proposed award of a guarantee will contribute significantly to the ability of a resident of this state to refinance successfully a principal residence loan.

IV. In the case of a loan to be made under RSA 204-C:82, the proposed loan will contribute significantly to the ability of a resident of this state to maintain current housing.

V. Reasonable and appropriate measures have been taken by the borrower to secure funds or assistance other than the guarantee or loan to be provided under RSA 204-C:81 and 204-C:82 and such measures have been unsuccessful.

VI. Reasonable and appropriate measures have been taken to minimize risk of loss to the state and to ensure that any private benefit from the proposed action will be only incidental to the public purpose served thereby.

204-C:85 Rulemaking. Notwithstanding RSA 204-C:53, the authority shall adopt rules under RSA 541-A to implement the provisions of this subdivision. These rules shall include, but not be limited to:

I. Eligibility standards for loan guarantees issued under RSA 204-C:81. Such standards shall include maximum income and asset limits for eligible participants.

II. Eligibility standards for housing assistance loans made under RSA 204-C:82. These standards shall include maximum income and asset limits for eligible borrowers.

III. The conditions and terms of loan guarantees issued and loan made under this subdivision.

IV. Such other matters necessary to implement the provisions of this subdivision.

4 Exemption. The legislature declares that there is an urgent need for the programs created by section 3 of this act. Therefore, notwithstanding any provisions of RSA 541-A to the contrary, the authority may adopt rules to implement the provisions of section 3 of this act pursuant to RSA 204-C:53. The rules authorized by this section shall remain effective until such time as the authority adopts superseding rules under RSA 541-A. The authority shall commence rulemaking under RSA 541-A implementing the provisions of section 3 of this act no later than December 31, 1993.

5 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill allows the New Hampshire housing finance authority to allocate fees as matching funds for federal housing programs.

The bill also establishes a program, to be administered by the authority, to guarantee certain home mortgages for low and moderate income persons and families.

SENATOR W. KING: I am not interested in using this bill as an opportunity to beat up on banks or to make banks seem like they are the bad guys here. I want to make a little analogy here since I think that it is appropriate. If Senator Bass and I were canoeing down the Amazon together and a big anaconda fell out of a tree and wrapped itself around him and pulled him off into the river, I would have two choices: the first choice would be to let Senator Bass and the snake drown; now I have to tell you, right now, I wouldn't mind that choice, but the second choice is that I would save Senator Bass; and unfortunately, I may have to save the snake too, in order to do that. That is what this bill does. Yes, the banks are going to benefit from this to some degree, but the primary beneficiaries here are the folks who are struggling to keep their homes in the state of New Hampshire, not the banks. Let me tell you that we have agonized over this bill for months, and for the first time, you have a collation of people in the banking community and in the real estate community, homeowners who are concerned about keeping their home who have come together with an agreement on this. Let me remind you that 90 percent of the risk that is involved in this bill is being shouldered by the banks. The 10 percent guarantee that we provide is matched with a 90 percent risk on the part of the bank. Now we, in the business packages that passed in the state here, in the Senate, we didn't ask that the banks have to contribute if there was a loan guarantee

given. In fairness, we ought not to ask that with the homeowners either. I am asking you to defeat the pending amendment and vote in favor of the bill as it is.

SENATOR PRESSLY: Senator King, I think that the concept and the idea of Senator Bass' amendment is valuable. My hope would be that many of the banks would in fact participate in this manner. Is it possible that they could without this amendment, become more active participants in this manner on their own will and agreeing to do so?

SENATOR W. KING: Senator Pressly, the answer to that is yes. If the circumstances were warranted, and I think that there are some circumstances that may warrant, but they are capable of doing that. But what we are doing . . . this amendment would virtually destroy the bill. What it would do is to put banks into a position where they wouldn't participate in what has taken us in concert with the New Hampshire Housing Finance Authority and the banking communities and others, to build this amendment. It would destroy that because federal regulators, first and foremost, wouldn't allow them to make these kinds of loans, even with the guarantee because the risk would be too high.

SENATOR PRESSLY: Would it be possible since it is this late in the day that for those of us who would like to see this happen on a voluntary basis, that we enter it into the record, and so that the banking community would understand that the Senate would hope that they would participate in this type of program of their own free will?

SENATOR W. KING: Senator Pressly, I think that you have done that, and admirably so.

SENATOR ST. JEAN: I would like to stand in support of Senator Bass' amendment. I think that the argument here today that the banks won't participate if we put into this amendment as Senator Bass did, disallowing points, I think is wrong, and I think, is a red herring. For Senator King to stand here and say that the whole deal will go through, I think, it is wrong. I think, that it is a disservice. Banks will participate in this and you can bet your bottom dollar that they will do it. I think, that this is a worthwhile amendment, and I think that we should vote for it, and if not, I think that we should kill this bill if we can't put this amendment on it.

Question is on the floor amendment.

A roll call was requested by Senator Bass.

Seconded by Senator Humphrey.

The following Senators voted Yes: Oleson, Heath, Disnard, Roberge, Bass, Pressly, Nelson, Humphrey, St. Jean.

The following Senators voted No: W. King, Fraser, Hough, Currier, Blaisdell, Colantuono, McLane, Podles, J. King, Russman, Shaheen, Hollingworth, Cohen.

Yeas 9

Nays 13

Floor amendment fails.

Question is on ordering to third reading.

A roll call was requested by Senator Bass.

Seconded by Senator Heath.

The following Senators voted Yes: Oleson, W. King, Fraser, Hough, Currier, Blaisdell, Bass, Pressly, Nelson, McLane, J. King, Russman, Shaheen, Hollingworth, Cohen.

The following Senators voted No: Heath, Disnard, Roberge, Colantuono, Podles, Humphrey, St. Jean.

Yeas 15

Nays 7

Ordered to third reading.

TAKEN OFF THE TABLE

HB 1329-FN-L, specifying the time for the municipal treasurer to make payments of annual budget funds to the village district.

Adopted.

HB 1329-FN-L, specifying the time for the municipal treasurer to make payments of annual budget funds to the village district. Public Affairs committee. Ought to Pass with Amendment. Senator W. King for the committee.

5815L

Amendment to HB 1329-FN-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT

specifying the time for the town treasurer to make payments of annual budget funds to the village district, and relative to the Sugar Hill annual town meeting.

Amend the bill by replacing all after the enacting clause with the following:

1 Distribution of Taxes Collected in Village Districts. Amend RSA 52:16, II to read as follows:

II. In the case of districts with annual budgets of less than \$200,000, the town treasurer shall distribute the amount of taxes collected and held in trust by the town under paragraph I to the district treasurer no later than December 31 of each calendar year. [In the case of districts with annual budgets of \$200,000 or more, the town treasurer shall distribute the amount of taxes collected and held in trust by the town under paragraph I by distributing to the district treasurer all taxes collected in any given calendar month by the end of the next following month. The town treasurer, furthermore, shall turn over to the district treasurer all interest earned on district tax revenues held in trust by the town and all interest collected by the town on the account of any delinquent district taxpayers' district taxes in the same manner as the tax revenues are distributed.]

2 Sugar Hill Annual Town Meeting. All actions concerning the posting of the warrant, and all actions, votes and proceedings of the Sugar Hill annual town meeting held on March 10, 1992, are hereby legalized, ratified and confirmed.

3 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill requires the town treasurer, in the case of village districts with annual budgets of less than \$200,000, to distribute the amount of taxes collected and held in trust by the town to the district treasurer no later than December 31 of each calendar year.

The bill also legalizes all actions concerning the posting of the warrant, and all actions, votes and proceedings of the 1992 Sugar Hill annual town meeting.

SENATOR W. KING: The amendment in the calendar was printed wrong. The wrong amendment went into the calendar and this replaces the amendment that was in the calendar, so I ask that you vote against the committee amendment in the calendar and then I will explain this amendment.

Committee amendment fails.

SENATOR W. KING: The current law dealing with village districts says that village districts with budgets of less than \$200,000 the treasurer in the town distributes the taxes at the end of each calendar year. For districts with budgets of more than \$200,000 the treasurer distributes the amount of taxes on a monthly basis. The

problem that was brought to the committee is that there are some village districts that have agreements with towns, contractual agreements with towns that run contrary to the law. So what we added into the bill, into the law as language is: "unless otherwise agreed to in writing, by the town and the district treasurers". What that essentially does is that if a town and a village district agree on what distribution should be, then that is sufficient to cover the law. The second part of this merely legalizes the Sugar Hill town meeting where they made a mistake in the posting of the warrant, I believe it was.

Senator W. King offered a floor amendment.

5883L

Floor Amendment to HB 1329-FN-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT

relative to payments of annual budget funds to village districts
and relative to the Sugar Hill annual town meeting.

Amend the bill by replacing the enacting clause with the following:

1 Distribution of Taxes Collected in Village Districts. Amend RSA 52:16, II to read as follows:

II. In the case of districts with annual budgets of less than \$200,000, the town treasurer shall distribute the amount of taxes collected and held in trust by the town under paragraph I to the district treasurer no later than December 31 of each calendar year, **unless otherwise agreed to in writing by the town and district treasurers**. In the case of districts with annual budgets of \$200,000 or more, the town treasurer shall distribute the amount of taxes collected and held in trust by the town under paragraph I by distributing to the district treasurer all taxes collected in any given calendar month by the end of the next following month, **unless otherwise agreed to in writing by the town and district treasurers**. The town treasurer, furthermore, shall turn over to the district treasurer all interest earned on district tax revenues held in trust by the town and all interest collected by the town on the account of any delinquent district taxpayers' district taxes in the same manner as the tax revenues are distributed.

2 Sugar Hill Annual Town Meeting. All actions concerning the posting of the warrant, and all actions, votes and proceedings of the Sugar Hill annual town meeting held on March 10, 1992, are hereby legalized, ratified and confirmed.

3 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill allows town and district treasurers to agree in writing to a time period for the distribution of taxes to the village district.

The bill also legalizes all actions concerning the posting of the warrant, and all actions, votes and proceedings of the 1992 Sugar Hill annual town meeting.

SENATOR HEATH: Senator King, what was the mistake that they made?

Recess.

Out of recess.

SENATOR BASS: Senator Heath, the town of Sugar Hill failed to adequately post the notice of the meeting. Apparently the town clerk or the official who is required to post the notice, quit, the day before the notice was suppose to be posted; and by the time the new employee was in place, the statutory deadline of 14 days had passed, so that is what they failed to do, was to post the notice within 14 days. They want to confirm the meeting for that reason. There isn't anybody in the town who doesn't support this position, obviously, since they don't want to have to go through the expense and so forth of having a meeting again.

SENATOR HEATH: You then are aware of it that we made provisions so that these towns could go back and correct their errors?

SENATOR BASS: Yes, but you can't correct under the statute that we passed last year, the holding of the entire meeting itself, you can only correct votes within the meeting, and that is the reason that we have to come back with this amendment. The statute that we passed doesn't address the question in this amendment.

SENATOR HEATH: Well why . . . without us knowing all of the actions, votes and proceedings, and who might have a complaint in Sugar Hill when things weren't done right, that they weren't notified properly, how would we know that we weren't legalizing something that may have deprived somebody of their civil rights?

SENATOR BASS: The answer to that question, Senator Heath, is that the only way that we would know would be if somebody complained to us. This amendment has been published, it has been around. I haven't heard a thing and neither has anybody in the House.

SENATOR HEATH: Did they raise any money, any bond issue at this meeting?

SENATOR BASS: I don't know.

SENATOR HEATH: Is it likely that this is asked for by a bond counsel?

SENATOR BASS: I don't know. No, it was asked for by the town counsel . . .

SENATOR HEATH: On advice of the bond counsel?

SENATOR BASS: No, who was requested to make this request to me was by the selectmen of the town.

SENATOR HEATH: Do you think it is proper to have rules of conduct, and reward it by overriding violations of it in this body?

SENATOR BASS: I think that depends upon the nature of the violation. And I think that one has to look, especially in smaller towns as to what and where the balance is between proper compliance with a procedure and additional costs to taxpayers that would ensue if you were bureaucratic and tried to force these poor people to go through the whole process again at great cost to them.

SENATOR HEATH: Don't you think that the poor people of Sugar Hill after going through this cost once, would be very circumspect about doing it right in the future?

SENATOR BASS: I don't think that the people of Sugar Hill were responsible for doing it wrong. The reason that this occurred was because of an internal problem with the departure of an employee, and that problem could just as well happen again, regardless of whether this amendment passed or failed.

Floor amendment adopted.

Ordered to third reading.

Senator Heath in opposition to HB 1329.

RECONSIDERATION

Senator Nelson has served reconsideration on HB 1453-FN establishing a study committee to review existing shellfish waters monitoring and closure procedures.

Adopted.

HB 1453-FN, establishing a study committee to review existing shellfish waters monitoring and closure procedures.

SENATOR NELSON: I am going to offer a floor amendment. This is about the shellfish study committee. The other day, meaning last Thursday, we all voted on this particular issue dealing with shellfish study committee. The only thing that this amendment does is to remove the Department of DRED. I am a little stuck because I don't

have the copies of the floor amendment here yet. I am going to say that it is an agreed upon amendment. I would like to defer to my colleague, Senator Heath.

Senator Nelson offered a floor amendment.

5989L

Floor Amendment to HB 1453-FN

Amend the bill by replacing sections 2 and 3 with the following:

2 Membership. The committee shall consist of the following members all of whom shall be appointed no more than 30 days after the effective date of this act:

I. Two senate members, appointed by the president of the senate.

II. Two house members, appointed by the speaker of the house.

III. The director of the department of fish and game.

IV. The director of the division of public health services, department of health and human services.

V. The director of the division of water supply and pollution control, department of environmental services.

VI. The coastal commissioner of the department of fish and game.

VII. Two members of the general public, one of whom shall be a researcher from the university of New Hampshire actively involved in shellfish research and knowledgeable about biological sampling and analysis, appointed by the governor and the executive council.

3 Chair; Meetings. The chair of the committee shall be chosen by the committee at its first meeting. The first meeting of the committee shall be called by the first appointed house member within 60 days of the effective date of this act.

SENATOR HEATH: It removes the DRED representative and it removes one member of the public, but it leaves the rest of the committee intact to study this problem.

SENATOR HOLLINGWORTH: I would like to have you support the amendment. I think that this was a step forward. I had voted very strongly in opposition to going ahead with this, because I unfortunately knew someone who had been infected with hepatitis A, who had been very, very ill and nearly died, and was in a very serious state from eating clams that were contaminated, so I felt very strongly that the clams in this state should be under the plan and under the inspection of the Health Department. I was afraid that this legislation, because of some of the things that I had heard, was intended to loosen those standards. I think that it is appropriate to study it, to be sure that we are testing often enough; and that if

there are more funds needed for more testing, that that will take place. One other thing that this amendment does is say that the members from the committee will elect the chairman and that the chairman will call the first meeting. That is all that the amendment does. We would ask for your support.

SENATOR NELSON: Is it possible that if I did not have a roll call to have my name recorded in the journal?

SENATOR DELAHUNTY (In the Chair): Yes, Senator.

SENATOR NELSON: So instead of asking for a roll call, I could have my name in the Journal?

SENATOR DELAHUNTY (In the Chair): Yes, Senator.

Floor amendment adopted.

Ordered to third reading.

TAKEN OFF THE TABLE

Senator King moved to have HB 1396-FN an act authorizing municipalities to incur debt in the form of bonds guaranteed by the state of New Hampshire to assist municipalities, towns, cities, counties or districts to close landfills and to clean up hazardous waste sites taken off the table.

Adopted.

HB 1396-FN, an act authorizing municipalities to incur debt in the form of bonds guaranteed by the state of New Hampshire to assist municipalities, towns, cities, counties or districts to close landfills and to clean up hazardous waste sites.

SENATOR HOLLINGWORTH: I stand to move ought to pass with this bill. I understand that Senator Shaheen will offer a floor amendment on it. This bill authorizes New Hampshire's municipal bank bonding to sell bonds guaranteed by the state of New Hampshire to assist municipalities, towns and cities for a closure of landfills and clean up of hazardous waste sites, solid waste sites and superfund sites. I believe that Senator Shaheen's amendment will remove superfund sites because that is taken care of in the bill that we passed the other day. This bill also excludes municipalities from debt limits under RSA 33, if borrowing for the purpose of this bill. It is exactly what we have done in the school building aid and also what we have done for the sewer bill. We think that this is appropriate. The committee would like to have your support on this bill.

SENATOR SHAHEEN: Everyone should have floor amendment #5931L. All that this amendment does is to remove any reference to superfund from the bill. As you may remember, last week, we passed

HB 1344 which included money to address clean up of superfund sites. Since we are dealing with that in 1344, we don't need to deal with it in this bill, so we would like to take it out. I urge you to support the amendment.

Senator Shaheen offered a floor amendment.

5931L

Floor Amendment to HB 1396-FN

Amend the title of the bill by replacing it with the following:

AN ACT

authorizing municipalities to incur debt in the form of
bonds guaranteed by the state of New Hampshire
to assist municipalities, towns, cities,
counties or districts to close
landfills and to clean up
certain hazardous
waste sites.

Amend the bill by replacing sections 1-3 with the following:

1 Statement of Policy. It is hereby declared to be the policy of the state that for the benefit of New Hampshire's citizens, businesses, and future generations of the state that unsafe and unsanitary landfills must be closed and hazardous waste sites and solid waste sites must be cleaned up in an orderly and cost effective manner. The purpose of this act is to extend authority to municipalities and counties to issue bonds guaranteed by the state of New Hampshire to assist such entities in the financing of the closings of landfills and the cleanup of hazardous waste sites and solid waste sites.

2 New Section; Exclusion From Debt Limit. Amend RSA 33 by inserting after section 6-b the following new section:

33:6-c Exclusion From Debt Limit; Waste Site Cleanups. Municipalities may incur debt for cleanup projects pursuant to RSA 147-B, excluding superfund sites, and for the closing or cleanup of landfills and other solid waste facilities as defined in RSA 149-M by the issue of bonds or notes authorized under this chapter and RSA 149-M:24-a. Any debt incurred for this purpose shall be outside the debt limit prescribed in this chapter. Such debt shall at no time be included in the net indebtedness of any municipality for the purposes of determining its borrowing capacity.

3 New Sections; Cleanup of Landfills, Hazardous Waste Sites and Solid Waste Sites. Amend RSA 149-M by inserting after section 24 the following new sections:

149-M:24-a Cleanup of Waste Sites; Rulemaking. In addition to any

other powers conferred upon cities, towns, districts and counties by this chapter or by RSA 147-B, cities, towns, districts and counties shall have the power to finance costs incurred for the closing and cleanup of landfills and other solid waste facilities and for the closing and cleanup of hazardous waste sites, excluding superfund sites, as provided in RSA 147-B. The commissioner of environmental services shall adopt rules pursuant to RSA 541-A, relative to the administration of this section.

149-M:24-b State Guarantee. In view of the public benefits resulting from the proper closing of landfills and other solid waste facilities and for the closing and cleanup of qualifying hazardous waste sites, the governor and council are authorized in the name of the state of New Hampshire to guarantee unconditionally, but at no time in excess of the total aggregate sum for the entire state of \$50,000,000, the payment of all or any portion, as they may find to be in the public interest, of the principal of and interest on any bonds or notes issued by any city, town, district or county for the closing and cleanup of any landfill or any other solid waste facility or the closing and cleanup of any hazardous waste site, excluding superfund sites, and the full faith and credit of the state are pledged for any such guarantee. However, the amount of the state guarantee for bonds issued by any municipality under this chapter shall not exceed 50 percent of the total amount of the eligible cost for the closing and cleanup of any landfill or any solid waste facility or the closing and cleanup of any qualifying hazardous waste site. The outstanding amount of principal and interest on such bonds and notes, the payment of which has been guaranteed by the state under the provisions of this section, shall at no time exceed the amount of \$50,000,000. The state's guarantee shall be endorsed on such bonds or notes by the state treasurer, and all notes or bonds issued with the state guarantee shall be sold at public sealed bidding to the highest bidder. Any and all such bids may be rejected and a sale may be negotiated with the highest bidder. In the event of default in payment of any such notes or bonds, the state may recover any losses suffered by it in an action against a municipality or county, as provided in RSA 530, provided, further, that in accordance with RSA 35-A:29, the foregoing requirement for public sealed bidding shall not be applicable to any bonds or notes or both so guaranteed which are sold to the New Hampshire municipal bond bank, and any bonds or notes or both so guaranteed may be sold to the New Hampshire municipal bond bank at private sale in accordance with the provisions of RSA 35-A.

AMENDED ANALYSIS

This bill authorizes the New Hampshire municipal bond bank to sell bonds guaranteed by the state of New Hampshire to assist municipal, town, city, county or district financing of the closing of landfills and the cleanup of hazardous waste sites and solid waste sites. This bill also excludes municipalities from the debt limit under RSA 33 if borrowing for the purposes of this bill.

Floor amendment adopted.

SENATOR HUMPHREY: Well here goes another \$50,000,000. I want to be on record against this.

Ordered to third reading.

Senators Podles, Currier, Nelson, Colantuono, Humphrey, in opposition to HB 1396.

TAKEN OFF THE TABLE

Senator J. King moved to have HB 1255-FN an act relative to the number of big bingo games charitable organizations may conduct and increasing the one game date prize total value from \$3,500 to \$14,000 taken off the table.

Adopted.

HB 1255-FN, an act relative to the number of big bingo games charitable organizations may conduct and increasing the one game date prize total value from \$3,500 to \$14,000.

SENATOR J. KING: HB 1255-FN got out of the bingo game bill, raising the prize total value from \$3,500 to \$1,400. That didn't meet with a good reception of the reception and the result was HB 1255 was amended with even a new title, relative to the amount of lucky seven annual distributors license fees. The distributors license fees for a year, a renewal fee is \$10,000. This bill here, the amendment is on page 27, by the way, in your calendar. I believe that there is another amendment coming around. This here would be that if you make \$30,000 or less on your lucky seven tickets, you would only have to pay \$2,500 for the annual fee, and as far as the bond, you would have to pay \$10,000 if you made over \$30,000, under \$30,000 you would only have to have a bond of \$2,500. I guess the problem here is that some were costing more for a license fee than they were making in money. The new amendment that is being passed out now, is just to keep the people honest that apply for this change. That to qualify for the reduced license, the license renewal fee under paragraph one, the applicant or licensee shall submit to the commission, a financial statement from the previous fiscal year showing that the

applicants license net receipts, totaled less than \$30,000. That was put in by the . . . that was recommended by the sweepstakes commission. I suggest ought to pass.

5964L

Amendment to HB 1255-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to the amount of the lucky 7 annual distributor
license fee and bond amount.

Amend the bill by replacing all after the enacting clause with the following:

1 Distributors of Lucky 7 Tickets; License Fee Decreased. Amend RSA 287-E:23, I to read as follows:

I. The applicant for a distributor's license shall pay to the commission an annual license or license renewal fee of \$10,000, **except that any applicant whose net receipts for the preceding fiscal year totaled less than \$30,000 shall pay to the commission an annual license or license renewal fee of \$2,500.** Such fee shall authorize the distribution of lucky 7 or similar break-open tickets within the state of New Hampshire and the warehousing of lucky 7 or similar break-open tickets for subsequent sale out of state.

2 Distributors of Lucky 7 Tickets; Bond Amount Decreased. Amend RSA 287-E:23, III to read as follows:

III. Each licensee shall post a bond in the amount of \$50,000 conditioned upon the licensee's compliance with the rules of the commission, **except that any licensee whose net receipts for the preceding fiscal year totaled less than \$30,000 shall post a bond in the amount of \$10,000 conditioned upon the licensee's compliance with the rules of the commission.**

3 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill decreases from \$10,000 to \$2,500 the lucky 7 tickets distributor's fee where the distributor's gross receipts for the preceding fiscal year are less than \$30,000. This bill also decreases the bond amount for lucky 7 ticket licensees from \$50,000 to \$10,000 under the same circumstances.

SENATOR PODLES: Senator King, what is this bill and this amendment doing to our bingo games, church bingo games in the cities and in the towns? What is it going to do to these games?

SENATOR J. KING: It isn't going to effect the bingo games at all. The bingo games, they wanted to raise the prize from \$3,500 to \$14,000. The majority of the committee, I think all of the committee, thought that that would take it out of most of the places and become a big business and not what it is suppose to be, so it doesn't affect it, it leaves it just the way it is for the bingo. We did change the procedure in the lucky seven distribution. That was put in place in the bill. So the bingo is just eliminated and is left just as it is at the present time. There is no change.

SENATOR PODLES: So it is just for lucky sevens?

SENATOR J. KING: Just for lucky sevens now, yes.

SENATOR PRESSLY: Senator King, could you give me some idea, the number of people and licenses this will affect?

SENATOR J. KING: Four or five, six, very few.

SENATOR PRESSLY: Very few?

SENATOR J. KING: Very few.

SENATOR PRESSLY: So you are saying that four, five or six have under the \$30,000, could you tell us how many are above?

SENATOR J. KING: No, no. There is probably one under \$30,000, I am not sure. The thing is, is that if they go under the \$30,000 then they only have to pay \$2,500, if they make over \$30,000 that is \$10,000 a year for their fee. By the way, this fee went up or was raised last year from, I think it was, \$2,500 in 1991 to \$10,000. That is a large fee.

SENATOR PRESSLY: We need some more of these.

SENATOR DISNARD: Senator King, look at the people in the House, you know who they are that are interested in the \$14,000 four times a year and they claim that it will help the smaller bingos at the VFW's, what was the reason that your committee felt that this was impractical?

SENATOR J. KING: I think that the reason was because last year we raised it from \$2,000 to \$3,500 and this year they are back to \$35,000 to \$14,000 and I think that the feeling is that this gets to be a big business and the people that are the charitable organizations, don't make any money, in fact some of them testified that they were making less money than they were paying out for the rent.

SENATOR DISNARD: You mean take away the totals lower than what they have now?

SENATOR J. KING: No, we didn't touch that, it remains the same as it is.

SENATOR DISNARD: Thank you, Mr. Chairman.

Question is on committee amendment.

Committee amendment adopted.

Senator J. King offered a floor amendment.

5993L

Floor Amendment to HB 1255-FN

Amend the bill by replacing section 2 with the following:

2 Distributors of Lucky 7 Tickets; Bond Amount Decreased; Requirement for Reduced License Fee. Amend RSA 287-E:23, III to read as follows:

III. Each licensee shall post a bond in the amount of \$50,000 conditioned upon the licensee's compliance with the rules of the commission, **except that any licensee whose net receipts for the preceding fiscal year totaled less than \$30,000 shall post a bond in the amount of \$10,000 conditioned upon the licensee's compliance with the rules of the commission. To qualify for the reduced license or license renewal fee under paragraph I, the applicant or licensee shall submit to the commission a financial statement from the previous fiscal year showing that the applicant's or licensee's net receipts totaled less than \$30,000.**

Floor amendment adopted.

Ordered to third reading.

TAKEN OFF THE TABLE

Senator Hollingworth moved to have HB 1498-FN an act relative to drug forfeiture taken off the table.

Adopted.

HB 1498-FN, an act relative to drug forfeiture.

SENATOR HOLLINGWORTH: Yesterday before this was put on the table I told you all of the reasons why I felt very strongly that this should be passed into law, but last night I got home and I received a telephone call. I told you about the different things that were happening in the state under the civil procedure act and I got a call from a lawyer who reminded me that she testified in front of our committee. What she told me was that there was a case in Bedford where a gentleman had been charged with an offense, found innocent, found that the police had entrapped him, not only the Bedford police, but the drug forfeiture task force, had entrapped him and that he had been found innocent, but in the civil procedure, his home had been taken. Now if we ever want to protect the forfeiture fund

to make sure that that money is going back to our cities and towns, we have to have judicial oversight, otherwise we are going to lose that valuable money that is going back to the communities. I would ask ought to pass on this bill.

Recess.

Senator Currier in the Chair.

SENATOR COLANTUONO: I asked that the bill be passed out so that the members could pay attention to the language of the bill on page one. First of all, I would like to point out that the so-called horror stories that you see of people losing their houses and so forth, even if they are found not guilty in the criminal case, this bill won't necessarily effect that result at all; all that this bill says is that no interest in property shall be subject to forfeiture unless the effect of that forfeiture is both just and proportionate to the seriousness of the chargeable felonious offense. Right now, all that the law requires is that the property be used in a felonious offense and that the state prove that. The bill goes on to give some language how the court can determine proportionality, shall consider such things as the quantity and the value of the controlled drugs related to the property, the manner and the circumstances of the offense, the impact of the forfeiture on the person. All this language doesn't clarify it, it just makes it even more muddled. I said when I spoke against this bill earlier in the week, that this is very vague and ambiguous language. How is a judge going to know from case to case how he or she is suppose to interpret this language? What we are going to have, right now we have a very clear law, very easy to administer by the courts. With this language in, every single case is going to be basically a crap shoot on the part of the state and the defendant, and you are going to have some judges who have a liberal view of it and some who have a more law and order oriented view of it and you are going to have unequal justice, not only from judge to judge, but with the same judge on a case by case basis, so it is a bad piece of legislation simply from that point of view. I also think that it is bad policy, but that is my argument that I already made last time. I am sure that you all or most of you have heard from the law enforcement community on this bill, they are strongly opposed to it and it is going to wreak havoc with our forfeiture law. The Attorney General and the law enforcement community spoke strongly against it in committee and they are very strongly opposed to it. I would urge a no vote on this. I don't think that it would be a wise vote to have to defend in front of the voters this fall.

SENATOR W. KING: I rise in support of the motion to pass this bill. I guess I would just like to say, respectfully to Senator Colantuono,

that it is always easier just to take everything that the person has, rather than trying to sort out what is just, but we turned to the courts to sort out what is just all the time, and it seems to me to make sense in this kind of circumstance that we do that. We had a case in one of my towns within the last two years where an individual lost his home for having several marijuana plants growing in his backyard. He lost his entire home. Now that is not just and proportionate to the crime. It is as bad to say that we will just take everything that the person owns if they have violated this particular law as it is for the IRS to say what did you make last year, send it in.

SENATOR RUSSMAN: Last night I went home and I kind of looked at the law again on this thing to double check what I think happens. Clearly, yesterday Senator Colantuono read part of a sentence about the burden of proof. The problem is that after that it says then it follows: in which the owners or other persons claiming exception shall have the burden of proving such exception. Then it shifts and believe it or not, one of the things that you have to prove and the exception is that unless they show that the owners of thereof were consenting parties to a felonious violation and had knowledge of thereof, so you would have to prove that you had no knowledge. Now I don't know how the heck you can approve that, you are going to have to prove that. Now I mean, the police, with all due respect to them, they would just as soon that we don't have any guns, okay. They just as soon that they just have guns and not us have guns. Well, I happen to believe that we have the right to bear arms, but the police don't always agree with that philosophy. Well in this thing here, I think that it goes too far. I think that right now, if you have been found not guilty under our justice system, that is not immensurable, okay, and that doesn't make any sense to me; at least the judge ought to know you were found guilty or not guilty, I mean that might have some bearing on whether they think that you ought to lose your house, I would think, maybe it doesn't. But to my way of thinking, I just think that this, the law that presently is the potential for abuse is clearly there. Maybe it has not overly been abused, maybe it won't be overly abused, but I can't see giving or putting the citizenry in that position; that they may lose their homes and cars, particularly if they have been found not guilty from entrapment or from whatever else it might be; maybe it is from a technicality, maybe it isn't. If it is from a technicality, then the police made a mistake and that is why it was dismissed or found not guilty because of that technicality. So I think that it shouldn't shift the burden to the private citizens.

SENATOR COHEN: I also rise in strong support of this bill. TAPE INAUDIBLE.

SENATOR NELSON: Senator Russman, if we don't know whether it is a problem or it is not a problem, and we do know that it is one of the things in this United States that is beating down the drug people who are so smart, then what is the rationale if we are not sure?

SENATOR RUSSMAN: When I say maybe it is or maybe it isn't, I mean that there have been cases clearly where there have been abuses, but if there is one or two cases, does that matter? That to me, is not a big problem. If one of two people lose their house that shouldn't, that is a problem, but it is not like it is happening every-time, okay? To me, you ought to be able to say to the judge in this hearing, I was found not guilty judge, I was found not guilty. What does that mean? The judge can weigh that, maybe he will ask why were you found not guilty, maybe that can be explained. But right now, you can't even say that, it is like you have to prove that you didn't know and you were found not guilty in the first instance. I just think that that is . . . what kind of a . . . that just doesn't sound like the United States to me, that we should be doing that. That is a problem to me, in my mind.

SENATOR NELSON: Did I understand you to say that the individual is talking with the judge; and the judge is making a determination, and has that, within the present law, has that ability?

SENATOR RUSSMAN: No. What I am saying here is that the attorney . . . I will read the thing here for you. The Attorney General may petition a Superior Court in the name of the state, in the nature of a proceeding in forfeiture, it shall be a civil proceeding in equity in which the state shall burden of proving all material facts by TAPE INAUDIBLE evidence and in which the owners of other property claiming exception TAPE INAUDIBLE, shall have the burden of proving such exception. Okay, the courts shall issue orders and notice to all of the persons who may have an equitable interest in the items. At the request of the party, the court may grant a continuance until a final resolution of criminal proceedings, okay? At the hearing, the court shall hear evidence and make TAPE INAUDIBLE conclusion of law, make a final order from which the party shall have the right to appeal. My understanding, is that right now, that if you are found not guilty, the court will not admit that as a fact to be considered.

SENATOR NELSON: Thank you, Senator Russman. It almost sounds like I heard somebody say that in America if we don't like the way that things are going we change the laws. What is the impact on the drug people and the drug situation in keeping the drugs down and helping our law enforcement officers get these drug people off of

the street that we are pumping tons of money in and we have a drug war, is there a negative impact on that?

SENATOR RUSSMAN: I think that we ought to be more harsh on the penalties. I think, that certain sales ought to be potentially third or fourth so maybe TAPE INAUDIBLE.

SENATOR NELSON: Thank you.

SENATOR RUSSMAN: I mean, we have those areas, I happen to believe in capital punishment, and in those areas, we do have to take very extreme steps.

SENATOR HUMPHREY: Senator Russman, do I understand correctly that in a subsequent civil procedure, someone who was acquitted in a criminal procedure may be thoroughly questioned by the judge as to the circumstances? Is that correct?

SENATOR RUSSMAN: No, not right now.

SENATOR HUMPHREY: I mean under what you propose?

SENATOR RUSSMAN: Under the bill that is true, and it is not my bill, I am just speaking to it, but it is not my bill.

SENATOR HUMPHREY: So a judge would be free to inquire in detail about the circumstances and the details of the criminal proceeding?

SENATOR RUSSMAN: I don't see why he wouldn't be under that, I mean that is part of the purpose so to have that as evidence as to what happened. I would think that he could go . . . it is kind of like once you open the door, you open the door and it is there so that the inquiry can be made, and it should be made.

SENATOR HUMPHREY: So if someone was acquitted on some technical detail . . . well your answer was sufficient. Thank you.

SENATOR HOLLINGWORTH: I would like to say that the Bar Association who seldom comes in, supported this bill because they have prosecutors and lawyers on both sides and they were very cautious when they supported this. What they said was, they had voted in their body to support passage of this legislation because the trier of fact should really be the one determining whether the seizure is just and reasonable, and that is precisely what this does. It determines that if you have been found guilty of an offense that what they are taking is appropriate to what they should be taking. If you are not guilty, then they shouldn't be taking your property. That is precisely what this does, it puts it in the hands of the finder of facts. It does not do anything to the police department or cut down anything taking away from drug offenders. I want that clear, and I want it in

the record. Senator Nelson, I don't know whether you heard all of the testimony, but this does not prevent the police from getting the forfeiture; all that it does is say that the judge will determine whether it is just and reasonable, and then they can go right ahead if the judge determines it and takes that house or takes that car, if that individual is guilty of the crime, and if it is just and proportionate. We never used to have administrative seizures and forfeitures, and Senator Nelson, I have your testimony here from back in 1985, and in that testimony you were very fearful of exactly what has happened in these cases, and you said that you couldn't believe that they could just go into civil and take somebody's property with it being preponderance of evidence. They didn't even have to prove the fact, but just had to use preponderancy of the evidence. I would also like to say that Senator Colantuono said to me that if he had been here in 1985, he would never have supported administrative seizures. So I would ask you to go ahead and support this. I think that this is the only way that we are going to protect ourselves from not losing, because this will go to courts, and eventually they will prevent us from doing any forfeitures.

SENATOR NELSON: I obviously was bright in 1985, astute and alert. Let me tell you this though, since 1985, I haven't heard one word until Peter Burling came along and spent the time with this particular bill because he keeps referring to one case up in his area. Now other than having seen this one case, I have never heard from anybody that this is a major problem in the state of New Hampshire. Yes, I have heard a few people testify. I was there for the whole hearing. I know that I said that back in 1985. My question was answered, if there is a problem . . . gee, I am always talking fast, huh? If there is a problem, then I haven't seen that it is a major problem. What I have heard is that drugs . . . that this is the one thing that is working in this state of New Hampshire with the drug people. We are building this big case. Yes, I want everybody to know that I knew that that was in there, and that I knew that you had that, and I knew that people called me on the phone about it.

Question is on the committee report of ought to pass.

Adopted.

Question is on ordering to third reading.

A roll call was requested by Senator Colantuono.

Seconded by Senator Humphrey.

The following Senators voted Yes: Oleson, W. King, Heath, Fraser, Hough, Disnard, Roberge, Blaisdell, Bass, Pressly, McLane, Humphrey, Russman, Shaheen, Delahunty, Hollingworth, Cohen.

The following Senators voted No: Nelson, Colantuono, Podles, J. King, St. Jean.

Yeas 17

Nays 5

Ordered to third reading.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendments to the following entitled Bills sent down from the Senate:

HB 321, relative to small employer insurance and creating the position of life, accident and health actuary within the insurance department.

HB 1388, authorizing a civil penalty to be imposed in any proceeding in which a rule of a manufactured housing park owner is deemed unreasonable.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 62-FN, relative to licensure of athletic trainers.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: K. Ward, M. Goulet, G. Gosselin, S. Dowd.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the passage of the following entitled Bills sent down from the Senate:

SB 409-FN, relative to misrepresentations of weight by commercial packagers.

SB 445-FN, establishing a committee to study issues relating to the fishing industry.

SB 473-FN-A, relative to a fund for organ transplantation and transferring responsibility from vocational rehabilitation to the division of human services.

HOUSE MESSAGE

The House of Representatives has referred for Interim Study the following Bills sent down from the Senate:

SB 351, prohibiting the sale of certain products containing phosphorus.

SB 438-FN-A, relative to the department of transportation equipment inventory fund and making an appropriation therefor.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

SB 363, relative to health insurance coverage of autologous bone marrow transplants.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 363, relative to health insurance coverage of autologous bone marrow transplants.

Senator Delahunty moved concurrence.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

SB 334-FN-A, authorizing the division of public health services to carry out a rabies surveillance to identify and gauge the threat to the public's health.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 334-FN-A, authorizing the division of public health services to carry out a rabies surveillance to identify and gauge the threat to the public's health.

Senator J. King moved concurrence.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 433-FN, relative to the registration and equipment standards of motor vehicles known as street rods.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 433-FN, relative to the registration and equipment standards of motor vehicles known as street rods.

Senator Oleson moved concurrence.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

SB 427-FN, requiring the registration of sexual offenders.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 427-FN, requiring the registration of sexual offenders.

Senator Podles moved concurrence.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

SB 392, relative to guardians ad litem.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 392, relative to guardians ad litem.

Senator Podles moved concurrence.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

SB 314-FN-A-L, making a supplemental appropriation for the board of tax and land appeals and increasing filing fees for appeals to the board.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 314-FN-A-L, making a supplemental appropriation for the board of tax and land appeals and increasing filing fees for appeals to the board.

Senator Currier moved concurrence.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

SB 335-FN, authorizing the board of marital mediator certification to establish and collect certification fees, establish a budget and certify certain applicants.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 335-FN, authorizing the board of marital mediator certification to establish and collect certification fees, establish a budget and certify certain applicants.

Senator Currier moved concurrence.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

SB 446-A, authorizing construction of exit 10 on the Spaulding turnpike from bonds previously authorized and changing the classification of the Salmon Falls road in Rochester and Somersworth to class II.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 446-A, authorizing construction of exit 10 on the Spaulding turnpike from bonds previously authorized and changing the classification of the Salmon Falls road in Rochester and Somersworth to class II.

Senator Nelson moved concurrence.

Adopted.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from the Senate and request a Committee of Conference:

HB 1123, establishing procedures for representation in small claims court and authorizing persons to appear for corporations, partnerships, and trusts in district court.

SENATE ACCEDES TO REQUEST

HB 1123, establishing procedures for representation in small claims court and authorizing persons to appear for corporations, partnerships, and trusts in district court.

Senator Podles moved to accede to a Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: E. Moore, R. Lockwood, A. Record, P. Burling.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Colantuono, Podles, Hollingworth.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

SB 475-FN, relative to retirement system benefits for withdrawing nongovernmental employees.

**SENATE NONCONCURS
REQUEST OF COMMITTEE OF CONFERENCE**

SB 475-FN, relative to retirement system benefits for withdrawing nongovernmental employees.

Senator Currier moved non concurrence and request a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Russman, Blaisdell, Hough.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate and request a Committee of Conference:

HB 1399-FN, changing the name of the board of examiners of psychologists to the board of examiners of psychology and mental health practice, expanding such board, and certifying mental health counselors.

SENATE ACCEDES TO HOUSE REQUEST

HB 1399-FN, changing the name of the board of examiners of psychologists to the board of examiners of psychology and mental health practice, expanding such board, and certifying mental health counselors.

Senator Currier moved to accede to a Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: K. Ward, L. Emerton, M. Goulet, G. Gosse-
lin.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Currier, Fraser, Pressly.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from the Senate and request a Committee of Conference:

HB 1295, prohibiting discrimination in insurance policies against elected or appointed officials.

SENATE ACCEDES TO HOUSE REQUEST

HB 1295, prohibiting discrimination in insurance policies against elected or appointed officials.

Senator Delahunty moved to accede to a Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: R. Krueger, R. Porter, R. Mercer, D. Allison.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Delahunty, Nelson, Bass.

HOUSE CONCURS

The House of Representatives concurs with the Senate in the passage of the following entitled bill with amendment, in the passage of which amendment the House of Representatives asks the Concurrence of the Senate:

SB 362, redefining proprietary medicines to include nonprescription medicines and exempting non-pharmacy retail stores and outlets from classification as pharmacies for the purpose of RSA 318.

SENATE NON CONCURS REQUEST COMMITTEE OF CONFERENCE

SB 362, redefining proprietary medicines to include nonprescription medicines and exempting non-pharmacy retail stores and outlets from classification as pharmacies for the purpose of RSA 318.

Senator Currier moved non concurrence and request a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Currier, Colantuono, Fraser.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate and request a Committee of Conference:

HB 1182-FN, authorizing the division of human services to establish a system to recoup child support payments made in error; clarifying confidentiality of certain information and allowing the division to close certain cases.

SENATE ACCEDES TO REQUEST

HB 1182-FN, authorizing the division of human services to establish a system to recoup child support payments made in error; clarifying confidentiality of certain information and allowing the division to close certain cases.

Senator J. King moved to accede to a Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: E. Robinson, D. Connell, S. Nordgren, D. Hall.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: J. King, Podles, McLane.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate and request a Committee of Conference:

HB 1052, relative to the appointment of the executive director of the fish and game department and allowing the governor to make more frequent appointments to the fish and game commission.

SENATE ACCEDES TO REQUEST

HB 1052, relative to the appointment of the executive director of the fish and game department and allowing the governor to make more frequent appointments to the fish and game commission.

Senator Heath moved to accede to a Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: M. Dyer, S. Dowd, E. McGovern, G. Letourneau.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Heath, Cohen, W. King.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate and request a Committee of Conference:

HB 740-FN, relative to increasing political expenditure limitations for certain candidates and relative to the penalty for exceeding total expenditure limitations.

SENATE ACCEDES TO REQUEST

HB 740-FN, relative to increasing political expenditure limitations for certain candidates and relative to the penalty for exceeding total expenditure limitations.

Senator Bass moved to accede to a Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: R. Holbrook, C. Holden, G. Cowenhoven, T. Nardi.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Bass, Roberge, Nelson.

Recess.

Senator Dupont in the Chair.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate and request a Committee of Conference:

HB 1105, relative to disclosure of campaign contributions by candidates for local and school district elections.

SENATE ACCEDES TO REQUEST

HB 1105, relative to disclosure of campaign contributions by candidates for local and school district elections.

Senator Bass moved to accede to a Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: C. Holden, N. Flanagan, R. Trombly, F. Peyron.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Bass, Roberge, Nelson.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate and request a Committee of Conference:

HB 1430, relative to the disclosure of certain information and re-funds relating to musical performances.

SENATE ACCEDES TO REQUEST

HB 1430, relative to the disclosure of certain information and re-funds relating to musical performances.

Senator Bass moved to accede to a Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: J. Hunt, P. Drolet, L. Guay, C. Kean.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Bass, Roberge, Nelson.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate and request a Committee of Conference:

HB 601-FN-A, establishing a public water access advisory board and a statewide public boat access program and continually appropriating a special fund for the purposes of the program and creating a new class of highways for access to public waters.

SENATE ACCEDES TO REQUEST

HB 601-FN-A, establishing a public water access advisory board and a statewide public boat access program and continually appropriating a special fund for the purposes of the program and creating a new class of highways for access to public waters.

Senator Heath moved to accede to a Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: H. Dickinson, J. Conroy, P. Jankowski, A. Wiggin.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Heath, McLane, Cohen.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate and request a Committee of Conference:

HB 1128, classifying certain misdemeanors as either class A or class B.

SENATE ACCEDES TO REQUEST

HB 1128 classifying certain misdemeanors as either class A or class B.

Senator Podles moved to accede to a Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: D. Lozeau, E. Lown, P. Burling, D. Sytek.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Colantuono, Hollingworth, Nelson.

Recess.

Out of recess.

RECONSIDERATION

Senator Heath moved reconsideration on HB 1400-FN an act relative to the comprehensive shoreland protection act.

Adopted.

HB 1400-FN, an act relative to the comprehensive shoreland protection act.

SENATOR HEATH: Mr. President, I would like to defer to Senator Oleson.

SENATOR OLESON: I wanted to blow off a little steam earlier, but I seemed to have run out of steam as the hours progress and I know that that will please you. However, I have been brought up to believe that in the United States of America we were suppose to be able to acquire, keep, and have our property protected, that is what I al-

ways believed, until maybe the present day. Then I found out that there is a way of taking a mans property away, and that is at a point of a gun and by legislation. Now I am beginning to believe that that is what we have been doing for some time. I am very disturbed about it. I came in last night out of a committee that I was promised, three times, that certain things would be replaced; and then I get my calendar, and I found out that it wasn't today. If that wasn't taken out, I didn't read the rest of it, because I didn't know how much else had been deleted or added to it. My good friend here, did come in with an amendment, and I trust him. One said that that part was taken out and another one says just parts, Al King Solemon himself couldn't do better then that, because that covers just about everything. I did ask for and TAPE INAUDIBLE. Remember one of the very well known historians, Leon Anderson said, "this wasn't a legislature, this was a general court, where each and everyone of us could come down and blow off smoke and go home a better man or woman." That is exactly what I am doing today. A little while ago in my area, at least, a good percentage of our land is in government or state control and they are creeping. Years ago a certain power, I wasn't afraid of even though people were scared to death TAPE INAUDIBLE. Years ago we didn't have to destroy ourselves by invasion, we will do it to ourselves. I submit, Mr. President, that this creeping acquisition of our land, our rivers, of our shorelines, of our mountains, TAPE INAUDIBLE. I can go on and on, but it's getting dark, and it is getting late. I just wanted a chance to stand up and blow off some steam and say a little bit of what has been irritating me for some time now. Thank you very much.

Adopted.

Ordered to third reading.

Senator Heath in favor of HB 1400.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

SB 472-FN, relative to the victim's assistance fund, the definition of obscene material, modifying sexual assault statutes, and continuing a study committee.

**SENATE NON CONCURS
REQUEST COMMITTEE OF CONFERENCE**

SB 472-FN, relative to the victim's assistance fund, the definition of obscene material, modifying sexual assault statutes, and continuing a study committee.

Senator Podles moved non concurrence and request a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Podles, Hollingworth, Russman.

SUSPENSION OF THE RULES

Senator Currier moved that the rules of the Senate be so far suspended as to allow a committee report not advertised in the calendar to be presented to the Senate, HB 1478 restructuring the Pease Development Authority.

Adopted by necessary 2/3 vote.

HB 1478, restructuring the Pease Development Authority. Economic Development committee. Ought to Pass. Senator W. King for the committee.

Adopted.

SENATOR SHAHEEN: The amendment being passed out for HB 1478 sets up a process to allow the CON Board to determine whether to direct the CON Board to determine whether there is a health care need for the hospital at the former Pease Air Force Base. It asks the PDA to set up terms and conditions for sale or lease of the facility. It directs them to send all applicants who meet those conditions to the CON Board and then ask the CON Board to make a determination on the applicants and gives the PDA the final authority to decide whether to accept the contract that the CON Board has established. It also gives the CON Board the opportunity to determine that there is no need at Pease. We have been working all day on this amendment with attorneys representing various parties to the agreement. I think that this is a compromise that doesn't give anybody exactly what they want. We worked with a representative of the CON Board who feels like this is something that the board can live with if it is the determination of the legislature that we should do, at least attempt it. **TAPE INAUDIBLE.**

Senator Shaheen offered a floor amendment.

6003L

Amendment to HB 1478-FN-LOCAL

Amend the title of the bill by replacing it with the following:

AN ACT

relative to the Pease development authority, the health services planning and review board, and the establishment of standards for issuance of a certificate of need for a facility at the former Pease Air Force Base.

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; Purpose Added. Amend RSA 12-G:1 by inserting after paragraph III the following new paragraph:

IV. It is further declared that the hospital on the Pease Air Force Base is a structurally sound, recently constructed facility containing 70 beds, that, subject to the determination of the health services planning and review board under RSA 12-G:6, III, its use in the redevelopment plan for Pease Air Force Base may be best suited to utilization of such beds to provide state and national health care services, that attainment of the purposes set forth in RSA 12-G:1, I, II and III requires that ownership and operation of such facility be both consistent with the redevelopment plan and determined pursuant to the duties, powers and authorities set forth in this chapter, and that authority exercise of such duties, powers and authorities may conflict with the provisions of RSA 151-C, relating to the need and availability of health care facilities. It is further declared that any such conflicting policies and provisions be resolved in accordance with RSA 12-G:6, III its findings of need, its establishment of certain procedures for review by the board established under RSA 151-C, and its directives on the redevelopment and the uses of such facility.

2 Special Purpose and Findings. The general court finds that the hospital on the former Pease Air Force Base is a structurally sound, recently constructed facility containing 70 beds and as a part of the base redevelopment plan may be best suited to provide health care services. The general court finds that it is in the best interest of the state to promote an expeditious redevelopment of the former Pease Air Force Base and to encourage the highest and best use of the former hospital at the base.

3 Pease Development Authority; Reference Added. Amend RSA 12-G:6, II to read as follows:

II. The authority shall at all times act in a manner which is consistent with the public good and pursuant to this chapter shall seek

to implement the comprehensive plan for the conversion and redevelopment of Pease Air Force Base identified in [paragraph] **paragraphs I and III**.

4 New Paragraph; Duties of Pease Development Authority. Amend RSA 12-G:6 by inserting after paragraph II the following new paragraph:

III.(a) Notwithstanding any other provision of law, within 60 days from the effective date of this paragraph and pursuant to its provisions, the health services planning and review board shall either issue standards of need for utilization of the 70 bed hospital facility at former Pease Air Force Base as a health care facility or issue findings that there is no such need. If such standards of need are issued, within 90 days of such effective date the Pease development authority shall issue express requirements for lease or sale of such hospital facility and refer those requirements to the health services planning and review board. The health services planning and review board shall issue a request for proposals to meet the identified need or needs, incorporating the requirements, terms and conditions received from the Pease development authority. Within 150 days of such effective date, the health services planning and review board shall select that proposal which it determines best meets such standards, provided that all applicants shall meet the authority's requirements for lease or sale of such hospital facility.

(b) In carrying out the provisions of this paragraph, the health services planning and review board may determine that standards of need shall not be issued or that none of the applicants submitting proposals under this paragraph is qualified to be awarded a certificate of need under this paragraph.

(c) The Pease development authority shall have final authority to decide whether to contract with any applicant identified in the board's decision.

(d) After a certificate of need has been issued, the provisions of RSA 151-C shall then be applicable in all other respects.

5 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill provides for the use of the hospital at former Pease Air Force Base as a health care facility subject to the determination of the health services planning and review board and to that end resolves certain potential conflicts between RSA 12-G and RSA 151-C.

SENATOR NELSON: I am not exactly clear why it is not that this group does not have to go through the CON when a bonafide hospital that is in existence that has a mission statement, can't move off of

the dime unless they go before the CON. I am not clear as to why this particular situation is occurring.

SENATOR SHAHEEN: What I am saying to you is that this does have to go through CON. The only thing that we are doing differently here is that we have a facility that is already built and we are asking them if they would expedite their normal process looking specifically at this facility so that if you look at page three, under III, page two. It asks the CON Board to look at whether there is a need, if the standard of needs issue, it expedites the process. If you read down further, under B, it says that they may determine that standards of need shall not be issued or that none of the applicants submitting proposals are qualified. So it gives them the final authority to determine this is or isn't something that we want to do and this is or isn't an applicant that we would like to have. Let me just say that I understand the concern that has been expressed about certain TAPE INAUDIBLE at the CON Board and what we tried to do here at the CON process, what we tried to do here was to say that there was a need to expedite development needs. This is one of the things that maybe we ought to look at. If we are going to look at that, then the CON Board is the place to do that.

SENATOR NELSON: On page three, what does this mean on C? The Pease Development Authority shall have final authority to decide whether to contract with any applicant? Is that also protection?

SENATOR SHAHEEN: Well this is the protection that somebody who has been critical of the PDA. I give them reluctantly, but Senator Dupont in our discussion of our whole issue, raised what I think is a legitimate point; and he said, if you have a landlord, and in this case, the PDA is the landlord, and somebody is applying to be a tenant there that we have to say, we have to give the landlord some authority over who gets to be the tenant. And as much as I hate to agree with that, I think that that is probably true.

SENATOR NELSON: Thank you so much, Senator Shaheen.

SENATOR HEATH: Senator, I don't understand. It seems to me that this whole thing boils down to the question of we have a possible tenant business for an area that you have said many, many times, badly needs employment and development. This tenant isn't going to be flying people in and out of there all night long and making a lot of noise, this is not a tenant that is going to pollute. We established the CON to control costs and whether or not they have done a good job of it, I don't know, but to make one exception, to make some employment down there, why would we build a big bureaucratic hoop jumping exercise, why don't we as a body have the courage to either

decide that that is a good use for that building and get on and let them make a contract or jump out and say that we already established, and everybody has to go through the certificate of need. Why do we build this very elaborate bureaucratic gobbledygook to put everybody through when really it is just a policy decision that we should be making here, do it or don't do it? I mean why wouldn't you be fighting if it is your area, and it impacts your area, to just go around the certificate of need on this one occasion, it is a very unique situation?

SENATOR SHAHEEN: I would certainly agree that it is a unique situation. I guess, I don't feel that I, or this legislature, has the expertise to look at that facility and say that this should absolutely be a health care facility.

SENATOR HEATH: But isn't it really . . .

SENATOR SHAHEEN: Let me correct that. There are some health care facilities that could go in there without going through the CON and that could happen, but the issue is . . . I think we have a process established in this state that we need to go by and I agree that this is an extraordinary circumstance and that therefore we should give it some special consideration. The way that we are doing that is by directing them to come up with the health care need at this facility, if it is appropriate. I think they are better able to determine that that hospital at Pease is an appropriate place to continue to have a hospital than I am.

SENATOR HEATH: I would think the very evidence, correct me where I am wrong, the very evidence of a business like that that wants to come in, is some indication that there is a need in the area, the greater area, if you will, outside of the state as well as inside. I would think that where you have legitimately wanted to know what was going on down there and wanted to foster the right kind of business, that you would not come up with a kind of piece legislation that essentially is trying to kiss everyone's behind and kowtow to them. We are the policymakers, why can't we just make this piece a policy instead of trying to please these people and trying to please the CON people, why don't we just decide for them and say that is it and do it or not do it?

SENATOR SHAHEEN: Well, you have a basic philosophical question there. I guess . . .

SENATOR HEATH: Well, we haven't solved anything have we? Does this solve anything or does this just sort of nod to this group and nod to that group and make everybody jump through a whole bunch of garbage to get to whatever point that we are going to get, sort of randomly, when you do get through with all of that?

SENATOR SHAHEEN: I don't think that it does that. I mean, first of all, I think that the way that we get something to happen there is through compromise and I think that this does that. But secondly, I also think that we need to have a process that is going to be open to anybody who might want to bid on it. If they need the criteria and if they pass the standard that is set up there, then they ought to have an opportunity to bid on what goes in there. I don't think that that process is set up right now the way that it is, and I think that this does that.

SENATOR HEATH: But hasn't it been known for quite a while that that building was available, and haven't people been perfectly able to come forward with plans for use, and lease, and rent, of that building?

SENATOR SHAHEEN: They have, and there are several people who have come forward with plans.

SENATOR HEATH: Wouldn't you think that the Pease Authority would look over those plans, the ones that they had at the moment; and look over and see which is the best one, the best deal for the state and get them in there and get them going?

SENATOR SHAHEEN: Well, one would think, but that hasn't happened today.

SENATOR HEATH: Then why would we pass this bill, which is neither fish nor foul nor good red herring, that would delay the whole process?

SENATOR SHAHEEN: Senator Currier says I shouldn't answer that, so I am going to sit down.

SENATOR PODLES: Senator Shaheen, I am sorry that I was out of the room when you started to speak. I have a concern and I have been called by the CMC hospital and whatnot, could you tell me if this is now a compromise and if these people agree with this amendment
TAPE INAUDIBLE.

Floor amendment adopted.

Ordered to third reading.

TAKEN OFF THE TABLE

Senator Fraser moved that we have HB 591 an act reapportioning the state house of representatives districts taken off the table.

Adopted.

HB 591, an act reapportioning the state house of representatives districts.

Senator Fraser offered a floor amendment.

5998L

Floor Amendment to HB 591

Amend the title of the bill by replacing it with the following:

AN ACT

reapportioning the state house of representatives
and the state senate districts.

Amend the bill by replacing section 4 with the following:

4 State Senate Districts. RSA 662:3 is repealed and reenacted to read as follows:

662:3 State Senate Districts. The state is divided into 24 districts for the choosing of state senators, each of which may elect one senator. The districts shall be constituted as follows:

I. Senatorial district number 1 is constituted of Coos county and Bethlehem, Franconia, Lisbon, Littleton, and Sugar Hill.

II. Senatorial district number 2 is constituted of Ashland, Bath, Belmont, Benton, Bridgewater, Bristol, Campton, Dorchester, Easton, Ellsworth, Groton, Haverhill, Hebron, Holderness, Landaff, Lincoln, Livermore, Lyman, Lyme, Monroe, New Hampton, Orford, Piermont, Plymouth, Rumney, Sanbornton, Thornton, Tilton, Warren, Waterville Valley, Wentworth, and Woodstock.

III. Senatorial district number 3 is constituted of Carroll county and Center Harbor, Meredith, Middleton, and Milton.

IV. Senatorial district number 4 is constituted of Alton, Barnstead, Farmington, Gilford, Gilmanton, Laconia, New Durham, Pittsfield, and Strafford.

V. Senatorial district number 5 is constituted of Alexandria, Andover, Canaan, Danbury, Enfield, Grafton, Grantham, Hanover, Hill, Lebanon, Newbury, New London, Orange, Plainfield, Springfield, Sutton, and Wilmot.

VI. Senatorial district number 6 is constituted of Barrington, Nottingham, Rochester, and Somersworth.

VII. Senatorial district number 7 is constituted of Antrim, Bennington, Boscawen, Bradford, Canterbury, Deering, Frankestown, Franklin, Henniker, Hillsborough, Northfield, Salisbury, Warner, Weare, Webster, and Windsor.

VIII. Senatorial district number 8 is constituted of Acworth, Alstead, Charlestown, Claremont, Cornish, Croydon, Gilsun, Goshen, Harrisville, Langdon, Lempster, Marlow, Nelson, Newport, Stoddard, Sunapee, Surry, Unity, Walpole, and Washington.

IX. Senatorial district number 9 is constituted of Amherst, Bedford, Merrimack, Mont Vernon, and New Boston.

X. Senatorial district number 10 is constituted of Chesterfield, Hinsdale, Keene, Marlborough, Roxbury, Sullivan, Swanzey, Troy, Westmoreland, and Winchester.

XI. Senatorial district number 11 is constituted of Dublin, Fitzwilliam, Greenfield, Hancock, Jaffrey, Lyndeborough, Milford, New Ipswich, Peterborough, Richmond, Rindge, Sharon, Temple, and Wilton.

XII. Senatorial district number 12 is constituted of wards 1, 2, 3, and 5 in Nashua, and Brookline, Greenville, Hollis, and Mason.

XIII. Senatorial district number 13 is constituted of wards 4, 6, 7, 8, and 9 in Nashua.

XIV. Senatorial district number 14 is constituted of Hudson, Litchfield, and Londonderry.

XV. Senatorial district number 15 is constituted of Concord, Hopkinton, and Pembroke.

XVI. Senatorial district number 16 is constituted of wards 1, 2 and 12 in Manchester and Bow, Candia, Chester, Dunbarton, and Hooksett.

XVII. Senatorial district number 17 is constituted of Allentown, Brentwood, Chichester, Danville, Deerfield, Epping, Epsom, Fremont, Loudon, Northwood, Raymond, and Sandown.

XVIII. Senatorial district number 18 is constituted of wards 5, 6, 7, 8, and 9 in Manchester, and Auburn.

XIX. Senatorial district number 19 is constituted of Derry, Hampstead, Kingston, and Plaistow.

XX. Senatorial district number 20 is constituted of wards 3, 4, 10, and 11 in Manchester and Goffstown.

XXI. Senatorial district number 21 is constituted of Dover, Durham, Lee, Madbury, and Rollinsford.

XXII. Senatorial district number 22 is constituted of Atkinson, Pelham, Salem, and Windham.

XXIII. Senatorial district number 23 is constituted of East Kingston, Exeter, Hampton, Hampton Falls, Kensington, Newton, North Hampton, Newfields, Seabrook, and South Hampton.

XXIV. Senatorial district number 24 is constituted of Greenland, New Castle, Newington, Newmarket, Portsmouth, Rye, and Stratham.

5 Application. The changes in senate district lines established by this act shall not affect constituencies or terms of office of senators presently in office. The senate districts established by this act shall be in effect for the purpose of electing senators at the 1992 state general election. If there shall be a vacancy in a senate district for any reason prior to the 1992 state general election, the vacancy shall be filled by and from the same senate district that existed for the 1990 state general election. No provision of this act shall affect in

any manner any of the proceedings of the membership of the senate of the general court that assembled for an annual session in January, 1992.

6 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill establishes new state house of representatives and state senate districts in accordance with the latest federal decennial census.

Recess.

Out of recess.

SPECIAL ORDER

Senator Fraser moved to make HB 591 an act reapportioning the state house of representatives districts a Special Order for 2:30 p.m.

A roll call was requested by Senator St. Jean.

Seconded by Senator Humphrey.

The following Senators voted Yes: Oleson, W. King, Fraser, Hough, Dupont, Currier, Disnard, Roberge, Blaisdell, Bass, Pressly, Nelson, Colantuono, McLane, J. King, Russman, Shaheen, Delahunty, Hollingworth, Cohen.

The following Senators voted No: Heath, Podles, Humphrey, St. Jean.

Yeas 20

Nays 4

The motion for special order is adopted.

Recess.

Out of recess.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and Senate Bills:

HB 1151, establishing a committee to study the economic feasibility of utilizing vacant space at the New Hampshire hospital for certain state offices.

HB 1154, relative to an exemption for the sale of hypodermic syringes for school use.

HB 1201, relative to the license fee structure for domestic wine manufacturers.

HB 1269, separating the AFDC standard of need from the AFDC payment standards and increasing the AFDC standard of need.

HB 1353, relative to civil recovery of damages for shoplifting.

SB 383, establishing a committee to recommend a method of screening school district applicants for employment for felony convictions.

SPECIAL ORDER

Senator Fraser moved to take up the Special Order on HB 591 an act reapportioning the state house of representatives districts.

HB 591, an act reapportioning the state house of representatives districts.

SENATOR FRASER: As we all recall, I introduced the amendment to 591, which is the Senate redistricting bill, co-sponsored by Senator Disnard and myself. I don't want to add anything to what was said last night except to tell this body that it was the effort of Senator Disnard and myself to come up with a fair bill that meets the needs of our constituents. That is the most important part of the amendment #5998. I urge its adoption.

Senator Fraser offered a floor amendment.

5998L

Floor Amendment to HB 591

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AN ACT

reapportioning the state house of representatives
and the state senate districts.

Amend the bill by replacing section 4 with the following:

4 State Senate Districts. RSA 662:3 is repealed and reenacted to read as follows:

662:3 State Senate Districts. The state is divided into 24 districts for the choosing of state senators, each of which may elect one senator. The districts shall be constituted as follows:

I. Senatorial district number 1 is constituted of Coos county and Bethlehem, Franconia, Lisbon, Littleton, and Sugar Hill.

II. Senatorial district number 2 is constituted of Ashland, Bath, Belmont, Benton, Bridgewater, Bristol, Campton, Dorchester, Easton, Ellsworth, Groton, Haverhill, Hebron, Holderness, Landaff, Lincoln, Livermore, Lyman, Lyme, Monroe, New Hampton, Orford, Piermont, Plymouth, Rumney, Sanbornton, Thornton, Tilton, Warren, Waterville Valley, Wentworth, and Woodstock.

III. Senatorial district number 3 is constituted of Carroll county and Center Harbor, Meredith, Middleton, and Milton.

IV. Senatorial district number 4 is constituted of Alton, Barnstead, Farmington, Gilford, Gilmanton, Laconia, New Durham, Pittsfield, and Strafford.

V. Senatorial district number 5 is constituted of Alexandria, Andover, Canaan, Danbury, Enfield, Grafton, Grantham, Hanover, Hill, Lebanon, Newbury, New London, Orange, Plainfield, Springfield, Sutton, and Wilmot.

VI. Senatorial district number 6 is constituted of Barrington, Nottingham, Rochester, and Somersworth.

VII. Senatorial district number 7 is constituted of Antrim, Bennington, Boscawen, Bradford, Canterbury, Deering, Francestown, Franklin, Henniker, Hillsborough, Northfield, Salisbury, Warner, Weare, Webster, and Windsor.

VIII. Senatorial district number 8 is constituted of Acworth, Alstead, Charlestown, Claremont, Cornish, Croydon, Gilsum, Goshen, Harrisville, Langdon, Lempster, Marlow, Nelson, Newport, Stoddard, Sunapee, Surry, Unity, Walpole, and Washington.

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X. Senatorial district number 10 is constituted of Chesterfield, Hinsdale, Keene, Marlborough, Roxbury, Sullivan, Swanzey, Troy, Westmoreland, and Winchester.

XI. Senatorial district number 11 is constituted of Dublin, Fitzwilliam, Greenfield, Hancock, Jaffrey, Lyndeborough, Milford, New Ipswich, Peterborough, Richmond, Rindge, Sharon, Temple, and Wilton.

XII. Senatorial district number 12 is constituted of wards 1, 2, 3, and 5 in Nashua, and Brookline, Greenville, Hollis, and Mason.

XIII. Senatorial district number 13 is constituted of wards 4, 6, 7, 8, and 9 in Nashua.

XIV. Senatorial district number 14 is constituted of Hudson, Litchfield, and Londonderry.

XV. Senatorial district number 15 is constituted of Concord, Hopkinton, and Pembroke.

XVI. Senatorial district number 16 is constituted of wards 1, 2 and 12 in Manchester and Bow, Candia, Chester, Dunbarton, and Hooksett.

XVII. Senatorial district number 17 is constituted of Allens-town, Brentwood, Chichester, Danville, Deerfield, Epping, Epsom, Fremont, Loudon, Northwood, Raymond, and Sandown.

XVIII. Senatorial district number 18 is constituted of wards 5, 6, 7, 8, and 9 in Manchester, and Auburn.

XIX. Senatorial district number 19 is constituted of Derry, Hampstead, Kingston, and Plaistow.

XX. Senatorial district number 20 is constituted of wards 3, 4, 10, and 11 in Manchester and Goffstown.

XXI. Senatorial district number 21 is constituted of Dover, Durham, Lee, Madbury, and Rollinsford.

XXII. Senatorial district number 22 is constituted of Atkinson, Pelham, Salem, and Windham.

XXIII. Senatorial district number 23 is constituted of East Kingston, Exeter, Hampton, Hampton Falls, Kensington, Newton, North Hampton, Newfields, Seabrook, and South Hampton.

XXIV. Senatorial district number 24 is constituted of Greenland, New Castle, Newington, Newmarket, Portsmouth, Rye, and Stratham.

5 Application. The changes in senate district lines established by this act shall not affect constituencies or terms of office of senators presently in office. The senate districts established by this act shall be in effect for the purpose of electing senators at the 1992 state general election. If there shall be a vacancy in a senate district for any reason prior to the 1992 state general election, the vacancy shall be filled by and from the same senate district that existed for the 1990 state general election. No provision of this act shall affect in any manner any of the proceedings of the membership of the senate of the general court that assembled for an annual session in January, 1992.

6 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill establishes new state house of representatives and state senate districts in accordance with the latest federal decennial census.

Recess.

Out of recess.

LAID ON THE TABLE

Senator Fraser move to have HB 591 an act reapportioning the state house of representatives districts laid on the table.

Adopted.

HB 591 is laid on the table.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 450-FN, relative to capital formation.

**SENATE NON CONCURS
REQUEST COMMITTEE OF CONFERENCE**

SB 450-FN, relative to capital formation.

Senator Dupont moved non concurrence and request a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Dupont, W. King, Shaheen.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 348, establishing a committee to study the present and future needs of the correctional system.

SENATE CONCURS WITH HOUSE AMENDMENT

SB 348, establishing a committee to study the present and future needs of the correctional system.

Senator Currier moved concurrence.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 376-FN-A, relative to congregate services programs.

**SENATE NON CONCURS
REQUEST COMMITTEE OF CONFERENCE**

SB 376-FN-A, relative to congregate services programs.

Senator Blaisdell moved non concurrence and request a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Blaisdell, Hough, Roberge.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 393, relative to infrastructure development and making appropriations therefor.

SENATE NON CONCURS REQUEST COMMITTEE OF CONFERENCE

SB 393, relative to infrastructure development and making appropriations therefor.

Senator Dupont moved non concurrence and request a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Shaheen, W. King, Dupont.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 304-FN-A, relative to business assistance and institutional arrangements.

SENATE NON CONCURS REQUEST COMMITTEE OF CONFERENCE

SB 304-FN-A, relative to business assistance and institutional arrangements.

Senator W. King moved non concurrence and request a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: W. King, Shaheen, Dupont.

Recess.

Out of recess.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate and request a Committee of Conference:

HB 1211, permitting public employees to file an unfair labor practice complaint after a certain time without exhausting administrative remedies.

SENATE ACCEDES TO REQUEST

HB 1211, permitting public employees to file an unfair labor practice complaint after a certain time without exhausting administrative remedies.

Senator Currier moved to accede to a Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: R. Hawkins, D. Dow, L. Elliott, M. Hawkinson.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Currier, J. King, Humphrey.

Senate Conferee change: Senator Dupont replaces Senator Humphrey.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate and request a Committee of Conference:

HB 646-FN, relative to the disposal of certain solid waste products and leaf and yard waste.

SENATE ACCEDES TO REQUEST

HB 646-FN, relative to the disposal of certain solid waste products and leaf and yard waste.

Senator W. King moved to accede to a Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: G. Hansleman, I. Messier, M. Campbell, M. Terninko.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: W. King, Fraser, Currier.

Recess.

Out of recess.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 339, relative to regulatory reform.

SENATE NON CONCURS REQUEST COMMITTEE OF CONFERENCE

SB 339, relative to regulatory reform.

Senator Fraser moved non concurrence and request a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as said members of said Committee of Conference:

SENATORS: Dupont, Shaheen, Fraser.

Recess.

Out of recess.

TAKEN OFF THE TABLE

Senator Fraser moved to have HB 591, an act reapportioning the state house of representatives districts taken off the table.

Adopted.

HB 591, an act reapportioning the state house of representatives districts.

Senator Fraser offered a floor amendment.

5998L

Floor Amendment to HB 591

Amend the title of the bill by replacing it with the following:

AN ACT

reapportioning the state house of representatives
and the state senate districts.

Amend the bill by replacing section 4 with the following:

4 State Senate Districts. RSA 662:3 is repealed and reenacted to read as follows:

662:3 State Senate Districts. The state is divided into 24 districts for the choosing of state senators, each of which may elect one senator. The districts shall be constituted as follows:

I. Senatorial district number 1 is constituted of Coos county and Bethlehem, Franconia, Lisbon, Littleton, and Sugar Hill.

II. Senatorial district number 2 is constituted of Ashland, Bath, Belmont, Benton, Bridgewater, Bristol, Campton, Dorchester, Easton, Ellsworth, Groton, Haverhill, Hebron, Holderness, Landaff, Lincoln, Livermore, Lyman, Lyme, Monroe, New Hampton, Orford, Piermont, Plymouth, Rumney, Sanbornton, Thornton, Tilton, Warren, Waterville Valley, Wentworth, and Woodstock.

III. Senatorial district number 3 is constituted of Carroll county and Center Harbor, Meredith, Middleton, and Milton.

IV. Senatorial district number 4 is constituted of Alton, Barnstead, Farmington, Gilford, Gilmanton, Laconia, New Durham, Pittsfield, and Strafford.

V. Senatorial district number 5 is constituted of Alexandria, Andover, Canaan, Danbury, Enfield, Grafton, Grantham, Hanover, Hill, Lebanon, Newbury, New London, Orange, Plainfield, Springfield, Sutton, and Wilmot.

VI. Senatorial district number 6 is constituted of Barrington, Nottingham, Rochester, and Somersworth.

VII. Senatorial district number 7 is constituted of Antrim, Bennington, Boscawen, Bradford, Canterbury, Deering, Francestown, Franklin, Henniker, Hillsborough, Northfield, Salisbury, Warner, Weare, Webster, and Windsor.

VIII. Senatorial district number 8 is constituted of Acworth, Alstead, Charlestown, Claremont, Cornish, Croydon, Gilsum, Goshen, Harrisville, Langdon, Lempster, Marlow, Nelson, Newport, Stoddard, Sunapee, Surry, Unity, Walpole, and Washington.

IX. Senatorial district number 9 is constituted of Amherst, Bedford, Merrimack, Mont Vernon, and New Boston.

X. Senatorial district number 10 is constituted of Chesterfield, Hinsdale, Keene, Marlborough, Roxbury, Sullivan, Swanzey, Troy, Westmoreland, and Winchester.

XI. Senatorial district number 11 is constituted of Dublin, Fitzwilliam, Greenfield, Hancock, Jaffrey, Lyndeborough, Milford, New Ipswich, Peterborough, Richmond, Rindge, Sharon, Temple, and Wilton.

XII. Senatorial district number 12 is constituted of wards 1, 2, 3, and 5 in Nashua, and Brookline, Greenville, Hollis, and Mason.

XIII. Senatorial district number 13 is constituted of wards 4, 6, 7, 8, and 9 in Nashua.

XIV. Senatorial district number 14 is constituted of Hudson, Litchfield, and Londonderry.

XV. Senatorial district number 15 is constituted of Concord, Hopkinton, and Pembroke.

XVI. Senatorial district number 16 is constituted of wards 1, 2 and 12 in Manchester and Bow, Candia, Chester, Dunbarton, and Hooksett.

XVII. Senatorial district number 17 is constituted of Allentown, Brentwood, Chichester, Danville, Deerfield, Epping, Epsom, Fremont, Loudon, Northwood, Raymond, and Sandown.

XVIII. Senatorial district number 18 is constituted of wards 5, 6, 7, 8, and 9 in Manchester, and Auburn.

XIX. Senatorial district number 19 is constituted of Derry, Hampstead, Kingston, and Plaistow.

XX. Senatorial district number 20 is constituted of wards 3, 4, 10, and 11 in Manchester and Goffstown.

XXI. Senatorial district number 21 is constituted of Dover, Durham, Lee, Madbury, and Rollinsford.

XXII. Senatorial district number 22 is constituted of Atkinson, Pelham, Salem, and Windham.

XXIII. Senatorial district number 23 is constituted of East Kingston, Exeter, Hampton, Hampton Falls, Kensington, Newton, North Hampton, Newfields, Seabrook, and South Hampton.

XXIV. Senatorial district number 24 is constituted of Greenland, New Castle, Newington, Newmarket, Portsmouth, Rye, and Stratham.

5 Application. The changes in senate district lines established by this act shall not affect constituencies or terms of office of senators presently in office. The senate districts established by this act shall be in effect for the purpose of electing senators at the 1992 state general election. If there shall be a vacancy in a senate district for any reason prior to the 1992 state general election, the vacancy shall be filled by and from the same senate district that existed for the 1990 state general election. No provision of this act shall affect in

any manner any of the proceedings of the membership of the senate of the general court that assembled for an annual session in January, 1992.

6 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill establishes new state house of representatives and state senate districts in accordance with the latest federal decennial census.

Question is on the floor amendment.

A roll call was requested by Senator Heath.

Seconded by Senator Humphrey.

The following Senators voted Yes: Oleson, W. King, Heath, Fraser, Currier, Disnard, Roberge, Blaisdell, Bass, Pressly, Nelson, Colantuono, Podles, Humphrey, J. King, Russman, St. Jean, Shaheen, Delahunty, Hollingworth, Cohen.

The following Senators voted No: Hough, McLane.

Yeas 21

Nays 2

Floor amendment adopted.

SENATOR RUSSMAN: The amendment that you should have before you at this time is 6009L. I offer this to the Senate as a Republican, and it being the most Republican plan that has been offered to date in terms of protecting Republican seats, and potentially gaining Republican seats. I think that it is important that the plan at least be brought forward and be offered and let the Senate do with it as it will, but I think that if you look at the districts, as I have distributed the maps earlier, you have had a chance to look at it; and I think that you will find that certainly this is a good plans for Republicans, and I would urge you to pass this amendment.

Senator Russman offered a floor amendment.

6009L

Floor Amendment to HB 591

Amend the title of the bill by replacing it with the following:

AN ACT

reapportioning the state house of representatives
and the state senate districts.

Amend the bill by replacing section 4 with the following:

4 State Senate Districts. RSA 662:3 is repealed and reenacted to read as follows:

662:3 State Senate Districts. The state is divided into 24 districts for the choosing of state senators, each of which may elect one senator. The districts shall be constituted as follows:

I. Senatorial district number 1 is constituted of Coos county and Bethlehem, Franconia, Lisbon, Littleton, and Sugar Hill.

II. Senatorial district number 2 is constituted of Ashland, Bath, Belmont, Benton, Bridgewater, Bristol, Campton, Dorchester, Easton, Ellsworth, Groton, Haverhill, Hebron, Holderness, Landaff, Lincoln, Livermore, Lyman, Lyme, Monroe, New Hampton, Orford, Piermont, Plymouth, Rumney, Sanbornton, Thornton, Tilton, Warren, Waterville Valley, Wentworth, and Woodstock.

III. Senatorial district number 3 is constituted of Carroll county and Center Harbor, Meredith, Middleton, and Milton.

IV. Senatorial district number 4 is constituted of Alton, Barnstead, Farmington, Gilford, Gilmanton, Laconia, Loudon, New Durham, and Pittsfield.

V. Senatorial district number 5 is constituted of Alexandria, Andover, Canaan, Danbury, Enfield, Grafton, Grantham, Hanover, Hill, Lebanon, Newbury, New London, Orange, Plainfield, Springfield, Sutton, and Wilmot.

VI. Senatorial district number 6 is constituted of Allenstown, Chichester, Deerfield, Epsom, Northwood, Nottingham, Rochester, and Strafford.

VII. Senatorial district number 7 is constituted of Antrim, Bennington, Boscawen, Bradford, Canterbury, Deering, Francetown, Franklin, Henniker, Hillsborough, Northfield, Salisbury, Warner, Weare, Webster, and Windsor.

VIII. Senatorial district number 8 is constituted of Acworth, Alstead, Charlestown, Claremont, Cornish, Croydon, Gilsum, Goshen, Harrisville, Langdon, Lempster, Marlow, Nelson, Newport, Stoddard, Sunapee, Surry, Unity, Walpole, and Washington.

IX. Senatorial district number 9 is constituted of Amherst, Bedford, Merrimack, Mont Vernon, and New Boston.

X. Senatorial district number 10 is constituted of Chesterfield, Hinsdale, Keene, Marlborough, Roxbury, Sullivan, Swanzey, Troy, Westmoreland, and Winchester.

XI. Senatorial district number 11 is constituted of Dublin, Fitzwilliam, Greenfield, Hancock, Jaffrey, Lyndeborough, Milford, New Ipswich, Peterborough, Richmond, Rindge, Sharon, Temple, and Wilton.

XII. Senatorial district number 12 is constituted of wards 1, 2, 3, and 5 in Nashua, and Brookline, Greenville, Hollis, and Mason.

XIII. Senatorial district number 13 is constituted of wards 4, 6, 7, 8, and 9 in Nashua.

XIV. Senatorial district number 14 is constituted of Hudson, Litchfield, and Londonderry.

XV. Senatorial district number 15 is constituted of Concord, Hopkinton, and Pembroke.

XVI. Senatorial district number 16 is constituted of wards 1, 2 and 12 in Manchester and Bow, Candia, Chester, Dunbarton, and Hooksett.

XVII. Senatorial district number 17 is constituted of Atkinson, Derry, Hampstead, and Sandown.

XVIII. Senatorial district number 18 is constituted of wards 5, 6, 7, 8, and 9 in Manchester, and Auburn.

XIX. Senatorial district number 19 is constituted of Brentwood, Danville, East Kingston, Epping, Fremont, Kensington, Kingston, Newton, Plaistow, Raymond, Seabrook, and South Hampton.

XX. Senatorial district number 20 is constituted of wards 3, 4, 10, and 11 in Manchester and Goffstown.

XXI. Senatorial district number 21 is constituted of Barrington, Dover, Madbury, Rollinsford, and Somersworth.

XXII. Senatorial district number 22 is constituted of Pelham, Salem, and Windham.

XXIII. Senatorial district number 23 is constituted of Exeter, Greenland, Hampton, Hampton Falls, Newfields, Newmarket, North Hampton, and Stratham.

XXIV. Senatorial district number 24 is constituted of Durham, Lee, New Castle, Newington, Portsmouth, and Rye.

5 Application. The changes in senate district lines established by this act shall not affect constituencies or terms of office of senators presently in office. The senate districts established by this act shall be in effect for the purpose of electing senators at the 1992 state general election. If there shall be a vacancy in a senate district for any reason prior to the 1992 state general election, the vacancy shall be filled by and from the same senate district that existed for the 1990 state general election. No provision of this act shall affect in any manner any of the proceedings of the membership of the senate of the general court that assembled for an annual session in January, 1992.

6 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill establishes new state house of representatives and state senate districts in accordance with the latest federal decennial census.

SENATOR HEATH: Senator Russman, you have put this label on it as being the most Republican plan . . .

SENATOR RUSSMAN: It seems to be.

SENATOR HEATH: I think I can appreciate your strategy in saying that, but I am wondering if then if you believe that any Democrat who had any loyalty at all would vote against this?

SENATOR RUSSMAN: I am not sure what you are saying.

SENATOR HEATH: I mean if you are suggesting that this is the Republican plan, then you surely wouldn't expect any support from the Democrats on this right?

SENATOR RUSSMAN: I would doubt that we would have much support from the Democrats.

SENATOR HEATH: Thank you.

SENATOR SHAHEEN: Senator Russman, I just wanted to clarify that on the plan, the amendment that you have offered, that the town of Durham which has been in district 21 since district 21 was created, has been moved out of district 21 and in this plan is in district 24?

SENATOR RUSSMAN: Yes, that is correct.

SENATOR SHAHEEN: Thank you.

SENATOR DISNARD: Senator Russman, what district is Derry in your present floor amendment?

SENATOR RUSSMAN: Derry is a new district. It would have 62 percent Republican people. For a long time they have wanted . . .

SENATOR DISNARD: What district would it be in under your plan?

SENATOR RUSSMAN: The number, it would be district 17.

SENATOR DISNARD: That is your district now?

SENATOR RUSSMAN: My district is 19.

SENATOR DISNARD: You have moved them from your district?

SENATOR RUSSMAN: That is correct.

SENATOR DISNARD: The largest community?

SENATOR RUSSMAN: That is correct, and it is 62 percent Republicans in that district, and this would guarantee essentially that Derry would continue to have good Republican representation.

SENATOR DISNARD: Thank you.

Question is on the floor amendment.

A roll call was requested by Senator Bass.

Seconded by Senator Russman.

The following Senators voted Yes: Dupont, Bass, Russman, St. Jean.

The following Senators voted No: Oleson, W. King, Heath, Fraser, Hough, Currier, Disnard, Roberge, Blaisdell, Pressly, Nelson, Colantuono, McLane, Podles, Humphrey, J. King, Shaheen, Delahunty, Hollingworth, Cohen.

Yeas 4

Nays 20

Floor amendment fails.

Ordered to third reading.

Senator Dupont in favor of ordering to third reading HB 591.

Recess.

Out of recess.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bills and Resolutions sent down from the Senate:

SB 382, establishing a study committee on the selection, nomination and confirmation of judicial appointees.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in its amendments to the following entitled Bill sent down from the Senate:

HB 1167, relative to the police commission in the town of Conway.

TAKEN OFF THE TABLE

Senator Russman moved to have HB 1005 an act relative to the reapportionment of house districts within cities and the election of delegates to state party conventions taken off the table.

Adopted.

HB 1005, an act relative to the reapportionment of house districts within cities and the election of delegates to state party conventions.

SENATOR ROBERGE: Mr. President and members of the Senate, I have amendment #5898L. It was proposed by Representative Natalie Flanagan and agreed to by Representatives Carol Holden and Garret Cowenhowen, representing the House. It is an agreed on bill, and I urge passage, thank you.

Senator Roberge offered a floor amendment.

5898L

Floor Amendment to HB 1005

Amend the bill by replacing section 3 with the following:

3 Reapportioning State Representative Districts in Concord. RSA 662:5, VII District No. 14 is repealed and reenacted to read as follows:

District No. 14 Concord Ward 1	1
District No. 15 Concord Ward 2	1
District No. 16 Concord Ward 3	1
District No. 17 Concord Ward 4	1
District No. 18 Concord Ward 5	1
District No. 19 Concord Ward 6	1
District No. 20 Concord Ward 7	1
District No. 21 Concord Ward 8	1
District No. 22 Concord Ward 9	1
District No. 23 Concord Ward 10	1
District No. 24 Concord Wards 1-10	3

Amend RSA 662:5, IX District Nos. 15-20, as inserted by section 5 of the bill by replacing them with the following:

District No. 15 Rochester Ward 1	2
District No. 16 Rochester Ward 2	2
District No. 17 Rochester Ward 3	2
District No. 18 Rochester Ward 4	2
District No. 19 Rochester Ward 5	2

Floor amendment adopted.

Ordered to third reading.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 441-FN-A, establishing a statewide enhanced 911 system and continually appropriating a special fund.

Senator Currier moved concurrence.

Adopted.

SENATOR HUMPHREY: I will be short and sweet because I have said this before, but it is worth saying again; in that this bill sets up a whole new state bureaucracy which will only grow by leaps and bounds, in that it interferes with local choice. It is yet another exam-

ple of creeping statism which too often passes this body. I want to say again, register again, my opposition to this bill and to the conference report.

SENATOR MCLANE: Senator Humphrey, I guess I just want to get straight, you and I have talked about communism, but creeping socialism, creeping statism, excuse me, I am glad that I got that cleared up.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate and request a Committee of Conference:

HB 1278-FN-LOCAL, permitting towns to make bylaws for refuse disposal in specifically-designated bags and altering district court procedure for levying fines against bylaws violators.

SENATE ACCEDES TO HOUSE REQUEST

HB 1278-FN-LOCAL, permitting towns to make bylaws for refuse disposal in specifically-designated bags and altering district court procedure for levying fines against bylaws violators.

Senator W. King moved to accede to a Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: R. Campbell, D. Hultgren, D. Cote, J. Bradley.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: W. King, Fraser, McLane.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate and request a Committee of Conference:

HB 1439, instituting a motor vehicle emissions inspection program and requiring a study of diesel and other vehicles.

SENATE ACCEDES TO REQUEST

HB 1439, instituting a motor vehicle emissions inspection program and requiring a study of diesel and other vehicles.

Senator W. King moved to accede to a Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: B. McCann, J. Bradley, G. Hanselman, A. Merrill.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: W. King, St. Jean, Fraser.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 393, relative to infrastructure development and making appropriations therefor.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: B. Packard, R. Porter, C. Brown, C. Vaughn.

Alternate: G. Chandler.

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 362, redefining proprietary medicines to include nonprescription medicines and exempting non-pharmacy retail stores and outlets from classification as pharmacies for the purpose of RSA 318.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: B. Asplund, K. Wheeler, G. Wiggin, M. Lynch.

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 304-FN-A, relative to business assistance and institutional arrangements.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: B. Packard, P. Dowling, C. Brown, W. McCann.

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 339, relative to regulatory reform.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: R. Mercer, W. Tsiros, B. Packard, E. Lindblade.

HOUSE MESSAGE

Recess.

Out of recess.

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 308, revising the business corporation act.

SENATE REFUSES TO CONCUR REQUEST COMMITTEE OF CONFERENCE

SB 308, revising the business corporation act.

Senator Podles moved non concurrence and request a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as said members of Committee of Conference:

SENATORS: Podles, Hollingworth, Colantuono.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 346, relative to certain restraining orders and requiring arrest for certain violations of such restraining orders.

Senator Podles moved concurrence.

Adopted.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate and request a Committee of Conference:

HB 675-FN, relative to DWI penalties while operating a motor vehicle, OHRV, or boat or while transporting a child - establishing a public water access advisory board and a statewide public boat access program and continually appropriating a special fund for the purposes of the program and creating a new class of highways for access to public waters.

SENATE ACCEDES TO REQUEST

HB 675-FN, relative to DWI penalties while operating a motor vehicle, OHRV, or boat or while transporting a child. - establishing a public water access advisory board and a statewide public boat access program and continually appropriating a special fund for the purposes of the program and creating a new class of highways for access to public waters.

Senator Podles moved to accede to a Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: D. L. Lozeau, R. Campbell, C. W. Johnson, B. Baldizar.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Hollingworth, Nelson, Russman.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate:

HB 689-FN, relative to implied consent and administrative motor vehicle license suspension.

SENATE ACCEDES TO REQUEST

HB 689-FN, relative to implied consent and administrative motor vehicle license suspension.

Senator Podles moved to accede to a Committee of Conference

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: D. L. Lozeau, R. Campbell, W. Knowles, D. Bickford.

The President, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

SENATORS: Russman, Colantuono, Hollingworth.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate and request a Committee of Conference:

HB 1138, relative to the board of trust company incorporation's consideration of petitions for incorporation of savings banks.

SENATE ACCEDES TO REQUEST

HB 1138, relative to the board of trust company incorporation's consideration of petitions for incorporation of savings banks.

Senator Fraser moved to accede to a Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: B. Packard, R. Krueger, A. Syracuse, W. Tsiros.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Fraser, Pressly, McLane.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate and request a Committee of Conference:

HB 1136, relative to regulation of small loans.

SENATE ACCEDES TO REQUEST

HB 1136, relative to regulation of small loans.

Senator Fraser moved to accede to a Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: D. Christy, E. Lindblade, G. Baker, J. Hogan.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Fraser, Disnard, McLane.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendment to the following entitled Bill sent down from the Senate:

HB 1453-FN, establishing a study committee to review existing shellfish waters monitoring and closure procedures.

RESOLUTION

Senator Delahunty moved that the rules of the Senate be so far suspended as to allow all bills to be placed on third reading and final passage, all titles be the same as adopted, and that they be passed at the present time.

Adopted.

RECONSIDERATION

Senator Heath moved reconsideration on HB 591 an act reapportioning the state house of representatives districts.

SENATOR HEATH: I would like to speak to the motion. I urge everybody to vote no.

Motion fails.

RESOLUTION

Senator Delahunty moved that the business of the day being completed, the Senate recess to the Call of the Chair for the sole purpose of receiving House messages and Enrolled Bills Reports and setting up Committee of Conferences and that we recess to the Call of the Chair.

Adopted.

Senator Currier moved that we recess to the Call of the Chair.

Adopted.

LATE SESSION

HB 264-FN-A, an act placing hazardous waste transporter permit application fees in the hazardous waste cleanup fund.

HB 497, an act relative to an equipment challenge grant program for vocational and technical education programs.

HB 505-FN, relative to the normal yield tax, the extension of the reporting deadline for the study committee on clearcutting forest resources, the report of cut, and creating a committee to study forest protection and management.

HB 527-FN-A, an act licensing speech-language pathologists and making an appropriation therefor.

HB 591, an act reapportioning the state house of representatives districts.

HB 758, an act relative to the right to privacy act.

HB 778-FN, an act relative to the laws against discrimination.

HB 1005, an act relative to the reapportionment of house districts within cities and the election of delegates to state party conventions.

HB 1050-FN, an act limiting outdoor advertising devices and increasing permit fees for maintaining outdoor advertising devices.

HB 1104-FN, an act relative to capitalization of the affordable housing fund.

HB 1159-FN, an act relative to when municipal sewage disposal systems are considered public utilities.

HB 1161, relative to the composition of the wetlands board.

HB 1255-FN, an act relative to the number of big bingo games charitable organizations may conduct and increasing the one game date prize total value from \$3,500 to \$14,000.

HB 1278-FN-L, an act permitting towns to make bylaws for refuse disposal in specifically-designated bags and altering district court procedure for levying fines against bylaws violators.

HB 1314, establishing a committee to study the need for a public corporation to finance and operate environmental projects for the benefit of the state and making changes in certain water laws.

HB 1329-FN-LOCAL, specifying the time for the municipal treasurer to make payments of annual budget funds to the village district.

HB 1332, an act removing the prohibition on use or possession of tobacco products by minors.

HB 1347-A, an act designating money for the planning and design of a regional vocational education center in Milford.

HB 1372-FN, an act placing restrictions on the sale and disposal of manganese, zinc carbon, oxide and nickel-cadmium batteries.

HB 1376-FN-L, an act requiring the department of environmental services to assume 20 percent of eligible costs of the Conway sewer system project and making an appropriation for costs payments.

HB 1382, an act requiring all sellers of property to fully disclose information relative to private water supplies and septic and sewage disposal systems.

HB 1386-FN-A, an act establishing a foundation aid formula study committee, authorizing the committee to hire a consultant to study different methods of financing education and making an appropriation therefor.

HB 1396-FN, an act authorizing municipalities to incur debt in the form of bonds guaranteed by the state of New Hampshire to assist municipalities, towns, cities, counties or districts to close landfills and to clean up hazardous waste sites.

HB 1400-FN, an act relative to the comprehensive shoreland protection act.

HB 1401, an act requiring the mandates task force to study the impact of the development of the prison facility in the city of Laco-
nia.

HB 1439, an act instituting a motor vehicle emissions inspection program and requiring a study of diesel and other vehicles.

HB 1453-FN, establishing a study committee to review existing shellfish waters monitoring and closure procedures.

HB 1455-FN, an act relative to motor vehicle laws, including suspension of wholesale motor vehicle dealer's registration, hanging disability placards, and other technical changes.

HB 1468-FN-L, an act relative to special education catastrophic aid.

HB 1474-FN-A, an act relative to taxability of real estate transfers.

HB 1478, restructuring the Pease Development Authority.

HB 1491-FN-L, an act requiring professional fundraisers for police, law enforcement and firefighters' associations to register with and be regulated by the department of justice, increasing the amount of the registration fee, solicitation fee and bond, and making technical amendments to the registration law.

HB 1493-A, an act relative to extending the east-west highway study deadline.

HB 1494-FN-L, an act implementing the recommendations of the New Hampshire supreme court long-range planning task force regarding the judicial branch.

HB 1495-FN, an act establishing a committee to study the management of New Hampshire tidal waters and related issues.

HB 1498-FN, an act relative to drug forfeiture.

Senator Currier moved that we recess.

Adopted.

Recess.

Out of recess.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and Senate Bills:

HB 317, relative to a minimum service retirement allowance for group II members and making an appropriation for administrative costs.

HB 470, relative to health maintenance organizations.

HB 632, relative to administrative due process hearings concerning special education disputes and establishing a committee to study alternative methods of dispute resolution for the special education of educationally disabled students.

HB 1111, relative to liquor and beverage licensees delinquent in paying accounts and relative to advertising liquor and beverages.

HB 1142, permitting the bank commissioner to delegate duties and responsibilities.

HB 1390, providing a 5 percent cost of living adjustment for teacher members of the retirement system and providing a 10 percent cost of living adjustment for teachers retired prior to July 1, 1957.

HB 1429, relative to accounting for land use change tax funds.

SB 340, clarifying the definition of a school district.

SB 467, requiring evidence of tax payment for the moving of a building or structure.

HB 1141, relative to retail installment sales of motor vehicles.

HB 1172, increasing the amount of the homestead right.

HB 1339, requiring the division of human services to report certain obligors to consumer reporting agencies.

HB 1350, revising the laws that require a prescription to purchase a hypodermic needle.

HB 1361, establishing a committee to study state motor vehicle fleet management.

HB 1449, relative to the cost of publishing school laws.

SB 377, relative to penalties for mortgage brokers who fail to file annual reports.

SB 414, authorizing a pilot program in one county for investigative services for attorneys providing counsel to indigent defendants.

SB 429, relative to selecting engineers, architects, and surveyors by state agencies.

SB 474, relative to regular sessions of a district court in towns within the district.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House Bill:

HB 1202, permitting municipalities that have biennial municipal elections to submit charter changes for approval at biennial state elections, relative to filing for more than one seat on the same municipal board, and relative to the authority of the Concord charter commission.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 308, revising the business corporation act.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: N. Ford, E. Moore, R. Lockwood, P. Burling.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 376-FN-A, relative to congregate services programs.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: K. Foster, K. Carpenter, T. Cain, G. Wiggins.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 450-FN, relative to capital formation.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: B. Packard, C. Brown, D. Sytek, P. Burling.

Alternates: R. Grodin, R. Wheeler.

HOUSE MESSAGE

The House of Representatives refuses to accede to the request of the Senate for a Committee of Conference on the following entitled Bill:

SB 475-FN, relative to retirement system benefits for withdrawing nongovernmental employees.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendments to the following entitled Bills sent down from the Senate:

HB 1185-FN, authorizing the department of transportation to conduct surveys over certain roads, prescribe special rules for student driver training, exempt certain transportation operations from certain motor carrier statutes and relative to laying out class I and II highways.

HB 1226-FN, to protect the department of transportation against liability in the construction and maintenance of highways and highway bridges.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate and request a Committee of Conference:

HB 264-FN-A, placing hazardous waste transporter permit application fees in the hazardous waste cleanup fund.

SENATE ACCEDES TO REQUEST

HB 264-FN-A, placing hazardous waste transporter permit application fees in the hazardous waste cleanup fund.

Senator W. King moved to accede to a Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: D. Scanlan, M. Terninko, W. Boucher, K. Ward.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: W. King, Dupont, Fraser.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate and request a Committee of Conference:

HB 758-FN, relative to the right to privacy act.

SENATE ACCEDES TO REQUEST

HB 758-FN, relative to the right to privacy act.

Senator Podles moved to accede to a Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: N. Ford, A. Jacobson, R. Lockwood, J. Wall.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Podles, Russman, Hollingworth.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate and request a Committee of Conference:

HB 1314, establishing a committee to study the need for a public corporation to finance and operate environmental projects for the benefit of the state and making changes in certain water laws.

SENATE ACCEDES TO REQUEST

HB 1314, establishing a committee to study the need for a public corporation to finance and operate environmental projects for the benefit of the state and making changes in certain water laws.

Senator W. King moved to accede to a Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: H. Dickinson, M. A. Lewis, J. Conroy, W. Boucher.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: W. King, Dupont, Russman.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate and request a Committee of Conference:

HB 1344-L, requiring the house environment and agriculture and the senate environment committees to review the laws relative to solid waste management.

SENATE ACCEDES TO REQUEST

HB 1344-L, requiring the house environment and agriculture and the senate environment committees to review the laws relative to solid waste management.

Senator W. King moved to accede to a Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: P. Bean, C. Brown, E. Greene, M. Chambers.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: W. King, Russman, McLane.

Change of Conferees: W. King, Hough, Shaheen.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate and request a Committee of Conference:

HB 1357, establishing a committee to study the concept of in-home care as an alternative to institutionalized care.

SENATE ACCEDES TO REQUEST

HB 1357, establishing a committee to study the concept of in-home care as an alternative to institutionalized care.

Senator J. King moved to accede to a of Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: K. Foster, D. Hall, M. Copenhaver, E. Amidon.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: J. King, McLane, Podles.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate and request a Committee of Conference:

HB 1376-FN-L, requiring the department of environmental services to assume 20 percent of eligible costs of the Conway sewer system project and making an appropriation for costs payments.

SENATE ACCEDES TO REQUEST

HB 1376-FN-L, requiring the department of environmental services to assume 20 percent of eligible costs of the Conway sewer system project and making an appropriation for costs payments.

Senator Hough moved to accede to a Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: P. LaMott, M. Schotanus, M. A. Lewis, R. Buckley.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATE: Hough, Blaisdell, Dupont.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate and request a Committee of Conference:

HB 1408-FN-L, relative to technical changes in the unemployment compensation law and increasing the amount of taxable wages.

SENATE ACCEDES TO REQUEST

HB 1408-FN-L, relative to technical changes in the unemployment compensation law and increasing the amount of taxable wages.

Senator Russman moved to accede to a Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: R. Hawkins, B. Barody, M. Dyer, K. Ward,.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Russman, Nelson, Bass.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate and request a Committee of Conference:

HB 1493-A, relative to extending the east-west highway study deadline.

SENATE ACCEDES TO REQUEST

HB 1493-A, relative to extending the east-west highway study deadline.

Senator Nelson moved to accede to a Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: B. Marsh, R. Frechette. E. Hager. R. Johnson.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Nelson, Shaheen, Hough.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate and request a Committee of Conference:

HB 1495-FN, establishing a committee to study the management of New Hampshire tidal waters and related issues.

SENATE ACCEDES TO REQUEST

HB 1495-FN, establishing a committee to study the management of New Hampshire tidal waters and related issues.

Senator W. King moved to accede to a Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: M. A. Lewis, W. Nehring, P. Jankowski, C. Felch.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: W. King, Russman, Hollingworth.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate and request a Committee of Conference:

HB 1329-FN-L, specifying the time for the municipal treasurer to make payments of annual budget funds to the village district.

SENATE ACCEDES TO REQUEST

HB 1329-FN-L, specifying the time for the municipal treasurer to make payments of annual budget funds to the village district.

Senator Bass moved to accede to a Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: P. Golden, E. Lawrence, P. Cote, D. Soucy.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Bass, Pressly, Roberge.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate and request a Committee of Conference:

HB 1455-FN, relative to motor vehicle laws, including suspension of wholesale motor vehicle dealer's registration, hanging disability placards, and other technical changes.

SENATE ACCEDES TO REQUEST

HB 1455-FN, relative to motor vehicle laws, including suspension of wholesale motor vehicle dealer's registration, hanging disability placards, and other technical changes.

Senator Russman moved to accede to a Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: E. Moore, P. Burling, G. Baker, G. Katsakiores.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Russman, Oleson, Dupont.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate and request a Committee of Conference:

HB 1332, removing the prohibition on use or possession of tobacco products by minors.

SENATE ACCEDES TO REQUEST

HB 1332, removing the prohibition on use or possession of tobacco products by minors.

Senator J. King moved to accede to a Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: W. McCain, R. Lockwood, E. A. Robinson, L. Johnson.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: J. King, McLane, Podles.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate and request a Committee of Conference:

HB 1255-FN, relative to the number of big bingo games charitable organizations may conduct and increasing the one game date prize total value from \$3,500 to \$14,000.

SENATE ACCEDES TO REQUEST

HB 1255-FN, relative to the number of big bingo games charitable organizations may conduct and increasing the one game date prize total value from \$3,500 to \$14,000.

Senator McLane moved to accede to request for Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: R. Kelley, T. Behrens, L. Horton, J. Rosenkrantz.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: McLane, Russman, J. King.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate and request a Committee of Conference:

HB 497-FN-A, relative to an equipment challenge grant program for vocational and technical education programs.

SENATE ACCEDES TO REQUEST

HB 497-FN-A, relative to an equipment challenge grant program for vocational and technical education programs.

Senator Hough moved to accede to a Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: C. Brown, K. Hoelzel, J. Domaingue, C. Yeaton.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Hough, Blaisdell, Disnard.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate and request a Committee of Conference:

HB 1396-FN, authorizing municipalities to incur debt in the form of bonds guaranteed by the state of New Hampshire to assist municipalities, towns, cities, counties or districts to close landfills and to clean up hazardous waste sites.

SENATE ACCEDES TO REQUEST

HB 1396-FN, authorizing municipalities to incur debt in the form of bonds guaranteed by the state of New Hampshire to assist municipalities, towns, cities, counties or districts to close landfills and to clean up hazardous waste sites.

Senator W. King moved to accede to a for Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: B. Gage, R. Porter, C. Brown, M. Chambers.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: W. King, Shaheen, Fraser.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate and request a Committee of Conference:

HB 1468-FN-L, relative to special education catastrophic aid.

SENATE ACCEDES TO REQUEST

HB 1468-FN-L, relative to special education catastrophic aid.

Senator Hough moved to accede to a Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: N. Larson, P. Skinner, W. Riley, N. Kurk.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Hough, Disnard, Roberge.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate and request a Committee of Conference:

HB 1491-FN-L, requiring professional fundraisers for police, law enforcement and firefighters' associations to register with and be regulated by the department of justice, increasing the amount of the registration fee, solicitation fee and bond, and making technical amendments to the registration law.

SENATE ACCEDES TO REQUEST

HB 1491-FN-L, requiring professional fundraisers for police, law enforcement and firefighters' associations to register with and be regulated by the department of justice, increasing the amount of the registration fee, solicitation fee and bond, and making technical amendments to the registration law.

Senator Podles moved to accede to a Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: P. Drolet, E. Hager, E. Lown, W. Knowles.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Colantuono, Russman, Hollingworth.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate and request a Committee of Conference:

HB 778-FN, relative to the laws against discrimination.

SENATE ACCEDES TO REQUEST

HB 778-FN, relative to the laws against discrimination.

Senator Podles moved to accede to a Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: A. Tufts, J. McCarthy, E. Parr, R. Doucette.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Podles, Nelson, Russman.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate and request a Committee of Conference.

HB 1117, relative to the minimum age requirements for liquor license applicants, relative to employing minors in licensed establishments, and relative to games and amusements on the premises of on-sale licensees.

SENATE ACCEDES TO REQUEST

HB 1117, relative to the minimum age requirements for liquor license applicants, relative to employing minors in licensed establishments, and relative to games and amusements on the premises of on-sale licensees.

Senator McLane moved to accede to a Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: T. Behrens, A. Klemm, R. Kelley, A. Caswell.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: McLane, Russman, Hollingworth.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate and request a Committee of Conference:

1400-FN, relative to the comprehensive shoreland protection act.

SENATE ACCEDES TO REQUEST

1400-FN, relative to the comprehensive shoreland protection act.

Senator W. King moved to accede to a Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: H. Dickinson, L. Smith, S. Maviglio, M. A. Lewis.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: W. King, Russman, McLane.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate and request a Committee of Conference:

HB 1466-FN, modifying the advisory council on unemployment compensation.

SENATE ACCEDES TO REQUEST

HB 1466-FN, modifying the advisory council on unemployment compensation.

Senator Hough moved to accede to a Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: R. Hawkins, R. Turner, C. Johnson, T. Drabinowicz.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Hough, Blaisdell, Roberge.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate and request a Committee of Conference:

HB 1005, relative to the reapportionment of house districts within cities and the election of delegates to state party conventions.

SENATE ACCEDES TO REQUEST

HB 1005, relative to the reapportionment of house districts within cities and the election of delegates to state party conventions.

Senator Dupont moved to accede to a Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: C. Holden, N. Flanagan, G. Cowenhoven, R. Trombly.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Dupont, Roberge, Disnard.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from the Senate and request a Committee of Conference:

HB 1382, requiring all sellers of property to fully disclose information relative to private water supplies and septic and sewage disposal systems.

SENATE ACCEDES TO REQUEST

HB 1382, requiring all sellers of property to fully disclose information relative to private water supplies and septic and sewage disposal systems.

Senator W. King moved to accede to a Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: H. Dickinson, M. A. Lewis, P. Jankowski, K. Wadsworth.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: W. King, Russman, Currier.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendments to the following entitled House Bills sent down from the Senate:

HB 591, reapportioning the state house of representatives and the state senate districts.

HB 1494-FN-L, implementing the recommendations of the New Hampshire supreme court long-range planning task force regarding the judicial branch.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and Senate Bills:

HB 591, reapportioning the state house of representatives and the state senate districts.

HB 1139, relative to persons licensed to offer second mortgage home loans.

HB 1166, changing the definition of "commercial boat" for the purposes of boat registration and granting a muffler exemption for antique and classic boats.

HB 1191, prohibiting insurance companies from nonrenewing a homeowner's policy solely on the basis that a claim has been filed.

HB 1222, authorizing schools to modify authorized regional enrollment area (AREA) agreements.

HB 1318, repealing a provision of the business corporations act concerning application for reinstatement of charters, relative to the annual reports of beverage vendors and beverage vendor importers, and reinstating the charter of Rosetta Stone Associates, Inc.

HB 1342, relative to the location and establishment of a state veterans' cemetery and making an appropriation therefor.

HB 1448, relative to the loyalty oath for teachers.

HB 1465, relative to the taxation and transfer of restricted land.

SB 311, exempting certified fire investigators and certain towing companies from licensure under the detective agencies and securities services act, changing the qualification for fire investigators and changing the date for renewal or reinstatement of private detective licenses.

SB 316, establishing a committee to study cable television rates and the possibility of introducing competition into the marketplace in order to lower rates.

SB 371, establishing a committee to study the feasibility of year-round schools.

Recess.

Out of recess.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled House Bill sent down from the Senate and request a Committee of Conference:

HB 1478-FN-L, restructuring the Pease development authority.

SENATE ACCEDES TO REQUEST

HB 1478-FN-L, restructuring the Pease development authority.

Senator Fraser moved to accede to a Committee of Conference.

Adopted.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: R. Foster, M. Holmes, M. Copenhagen, A. Syracuse.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Dupont, Cohen, Fraser.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and Senate Bills:

HB 526, relative to transfers to the state prison.

HB 1347, designating money for the planning and design of a regional vocational education center in Milford.

HB 1114, adding and changing certain definitions in the liquor laws and relative to the transportation of wine and liquor.

HB 1116, relative to certain liquor and beverages licenses.

HB 1140, relative to exempting New Hampshire banks from acquisitions by out-of-state banks and bank holding companies.

HB 1185, authorizing the department of transportation to conduct surveys over certain roads, prescribe special rules for student driver training, exempt certain transportation operations from certain motor carrier statutes and relative to laying out class I and II highways.

HB 1186, assigning certain dams to the department of fish and game, transferring funds to the dam maintenance fund and authorizing the department of fish and game to purchase the Morrill Pond dam and abutting property in the town of Canterbury.

HB 1190, creating a committee to study ways to clarify the relationship between the legislative bodies and governing bodies in towns, school districts and village districts operating under the town meeting form of government with respect to budgetary matters.

HB 1315, amending RSA 154 relative to firewards and firefighters, exempting fire investigators from having law enforcement backgrounds, extending the committee studying fire laws, and extending the state historic flag committee and making an appropriation to such committee.

HB 1386, establishing a foundation aid formula study committee, authorizing the committee to hire a consultant to study different methods of financing education and making an appropriation therefor.

HB 1436, relative to septic setbacks and terrain alteration permits.

HB 1447, increasing witness fees for law enforcement officers.

HB 1473, establishing a New Hampshire scenic and cultural byways system.

SB 405, relative to driver attitude training for repeat and habitual offenders.

SB 462, relative to optional allowances and beneficiaries under the New Hampshire retirement system.

HB 504, requiring licensure of medical utilization review entities.

HB 1113, relative to compatible and conflicting liquor and beverage licenses.

HB 1115, changing obsolete references within the liquor laws.

HB 1296, relative to beverage and liquor licenses for motor vehicle racetracks and removing a prohibition on certain card games.

HB 1501, relative to unfunded state mandates.

SB 350, expanding the membership of the task force on mental health and criminal justice and continuing the study of the interactions between the mental health and criminal justice systems.

SB 382, establishing a study committee on the selection, nomination and confirmation of judicial appointees.

SB 425, relative to statement of expenses for costs incurred for response to forest and brush fires.

SB 471, authorizing child day care to certain AFDC clients.

HB 1178, extending appropriations for the Manchester district court facility and for the department of environmental services.

HB 1451, relative to the transportation of pupils living within a certain distance from the school to which they are assigned.

SB 441, establishing a statewide enhanced 911 system, continually appropriating a special fund and making an appropriation for initial costs of the system.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendments to the following entitled Bills sent down from the Senate:

HB 263-FN - establishing a fee structure for used oil marketers.

HB 505-FN - relative to the normal yield tax, the extension of the reporting deadline for the study committee on clearcutting forest resources, the report of cut, and creating a committee to study forest protection and management.

HB 1159-FN - relative to when municipal sewage disposal systems are considered public utilities and directing the university of New Hampshire and the department of environmental services to study the use of municipal solid waste bottom ash as daily landfill cover for lined landfills.

HB 1372-FN - placing restrictions on the sale and disposal of manganese, zinc carbon, oxide and nickel-cadmium batteries.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendment to the following entitled Bill sent down from the Senate:

HB 527-FN-A, licensing speech-language pathologists and making an appropriation therefor.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in its amendment to the following entitled Bill sent down from the Senate:

HB 1050-FN-L, limiting outdoor advertising devices and increasing permit fees for maintaining outdoor advertising devices.

HB 1104-FN, relative to capitalization of the affordable housing fund.

HB 1452-FN-L, allowing the county treasurer to use call bonds and lines of credit as financial management tools.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendments to the following entitled Bills and Resolutions sent down from the Senate:

HB 1101-FN, relative to certain liquor license fees and expanding certain prohibitions regarding competing interest in liquor and wine sales.

HB 1113, relative to compatible and conflicting liquor and beverage licenses.

HB 1116, relative to certain liquor and beverage licenses.

HB 1130, relative to ejecting persons from racetracks whose presence is inconsistent with proper conduct of a race meet, relative to

unclaimed pari-mutuel pool tickets and extending the existing capital improvement and promotional fund for greyhound racetracks.

HB 1202, permitting municipalities that have biennial municipal elections to submit charter changes for approval at biennial state elections, relative to filing for more than one seat on the same municipal board, and relative to the authority of the Concord charter commission.

HB 1268, relative to inspection and permit fees set by local legislative bodies.

HB 1308, relative to technical changes to the municipal charter laws and relative to the establishment of a charter commission in the town of Salem.

HB 1436, relative to septic setbacks and terrain alteration permits.

HB 1345, allowing off-sale licensees to advertise by signs and posters.

HB 1473-FN, establishing a New Hampshire scenic and cultural byways system.

HB 1501-L, relative to unfunded state mandates.

Recess.

Out of Recess.

COMMITTEE OF CONFERENCE CHANGE

SB 399-FN-L, requiring rabies shots for cats.

Senate Conferee change: Senator Fraser replaces Senator Heath.

HB 1439, instituting a motor vehicle emissions inspection program and requiring a study of diesel and other vehicles.

SENATE CONFEREES: W. King, St. Jean, Fraser.

Change in Conferee: Senator Dupont replaces: Senator St. Jean.

HOUSE CONFEREES: B. McCann, Bradley, Hanselman, A. Merrill.

HB 1128, classifying certain misdemeanors as either class A or class B.

SENATE CONFEREES: Colantuono, Hollingworth, Nelson.

Change in Conferees: Senator Dupont replaces: Senator Colantuono.

HOUSE CONFEREES: Lozeau, Lown, Burling, Record.

LATE SESSION

Senator Delahunty moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until Wednesday, May 6, 1992 at 11:00 a.m.

Adopted.

Adjournment.

May 6, 1992

The Senate met at 11:00 a.m.

A quorum was present.

The prayer was offered by the Rev. David P. Jones, Senate guest Chaplain.

A politician thinks of the next election. A statesman thinks of the next generation. And today and each day, through the doors of my church, just across the street, come many who think only of the next meal. Remember that what you do here together - and as individuals, effects the next election, the next generation and for many, the next meal. Thank you for that. Let me see if I can't get you some help now: Lord of all power and of all politics, whisper today into the ears of these your servants and show them, as a Senate together and as twenty-four individual people, how to change the world. That's all we ask.

Amen

Senator Delahunty led the Pledge of Allegiance.

**INTRODUCTION OF GUESTS
REPORT OF COMMITTEE ON ENROLLED BILLS**

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and Senate Bills:

HB 1126, allowing the public utilities commission to appoint a receiver or to take over the operations of any utility with annual revenues below \$2,000,000 which fails to provide adequate service.

HB 1159, relative to when municipal sewage disposal systems are considered public utilities and directing the university of New Hampshire and the department of environmental services to study the use of municipal solid waste bottom ash as daily landfill cover for lined landfills.

HB 1183, relative to the importation, propagation and possession of aquatic and wildlife species.

HB 1268, relative to inspection and permit fees set by local legislative bodies.

HB 1298, allowing any municipal fire or police department, or independent emergency service, to record incoming and outgoing central dispatch and emergency telephone calls.

HB 1405, relative to appeal of tax assessments to the board of tax and land appeals and the superior court.

HB 1414, relative to the medicaid plan to enhance the funding of services for children and families and making an appropriation therefor.

HB 1498, relative to drug forfeiture.

SB 385, to provide insurance coverage for court-ordered psychiatric and psychological services.

Enrolled Bill Amendment to HB 1164

Amend RSA 270:12, I as inserted by section 2 of the bill by replacing it with the following:

270:12 Operating Restrictions.

I. The commissioner of safety shall, after receiving a petition signed by 25 or more residents or property owners of each affected town or towns in which a lake, pond or river is located and after notice and hearing, at which it appears that the public interest requires, adopt rules under RSA 541-A governing the maximum horsepower of boat engines and outboard motors or prescribe maximum speed limits for the operation of such boats or outboard motors applicable to or upon all or any portion of the public waters of this state. The commissioner of safety shall, in like manner and after notice and hearing, prohibit the use of motorboats and outboard motors on bodies of public water having an area of 35 acres or less; provided, that said prohibition shall not be construed as affecting the bodies of water covered by RSA 270:75-109. Hearings under this section shall be held in the vicinity of the body of water under consideration during the months of June, July, August and September following the date of the petition.

Senator Humphrey moved adoption.

Adopted.

Enrolled Bill Amendment to HB 1227-A

Amend the title of the bill by replacing it with the following:

AN ACT

decreasing the bonding authorized relative to the Manchester access ramp project and repealing a provision relating to improvements on Gosling Road.

Senator Humphrey moved adoption.

Adopted.

Enrolled Bill Amendment to SB 436-FN-Local

Amend the title of the bill by replacing it with the following:

AN ACT

relative to the property tax exemption for the blind.

Senator Humphrey moved adoption.

Adopted.

Enrolled Bill Amendment to SJR 1

Amend the title of the joint resolution by replacing it with the following:

JOINT RESOLUTION: requiring the department of education to develop computer education guidelines for public schools.

Amend the first paragraph after the resolving clause by replacing it with the following:

That the department of education prepare, develop and administer computer education guidelines for our public schools. The guidelines shall include instruction in operation and shall address health and safety issues inherent in computer use; and

Senator Humphrey moved adoption.

Adopted.

Senator Currier is excused for the day.

COMMITTEE OF CONFERENCE REPORTS

6142L

COMMITTEE OF CONFERENCE REPORT ON HB 264-FN-A

The committee of conference to which was referred House Bill 264-FN-A, An Act placing hazardous waste transporter permit application fees in the hazardous waste cleanup fund having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrency with the Senate amendment and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing section 6 with the following:

6 New Subdivisions; Conversion of Fuel Oil Systems; Filling of Liquefied Petroleum Gas Containers. Amend RSA 339-B by inserting after section 12 the following new subdivisions:

Fuel Oil System Conversion

339-B:13 Duties of Suppliers. Any fuel supplier who installs a fuel heating system, at the request of a property owner, where a fuel oil heating system already exists, shall be responsible for the following:

I. Securely capping both ends of all fill pipes connected to the fuel tank or taking such other measures as are reasonably designed to render the fill pipes inoperable; and

II. Providing a written recommendation to the property owner, prior to the date of conversion, that he notify the fuel oil dealer that a conversion shall take place for the purpose of terminating deliveries of fuel oil to the premises.

Filling of Liquefied Petroleum Gas Containers

339-B:14 Definitions. In this subdivision:

I. "Liquefied petroleum gas" means any material that is composed predominantly of any of the following hydrocarbons or mixtures of those hydrocarbons:

- (a) Propane.
- (b) Propylene.
- (c) Normal Butane.
- (d) Isobutane.
- (e) Butylenos.

II. "Owner" means any person who holds title to a liquefied petroleum gas container.

339-B:15 Unlawful Use of Containers. No person except the owner, or a person authorized in writing by the owner, shall fill or refill a liquefied petroleum gas container with a capacity of or greater than 100 pounds with a liquefied petroleum gas or any other gas or substance.

339-B:16 Penalties. Any person, firm or corporation, or any officer, agent, servant or employee thereof, who violates the provisions of RSA 339-B:13 - 339-B:15 shall be guilty of a violation if a natural person, or guilty of a misdemeanor if any other person.

Amend the bill by replacing all after section 7 with the following:

8 Effective Date.

I. Sections 6-7 of this act shall take effect 60 days after its passage.

II. The remainder of this act shall take effect July 1, 1993.

*Conferees on the Part
of the Senate*

Sen. W. King, Dist. 2

Sen. Dupont, Dist. 6

Sen. Fraser, Dist. 4

*Conferees on the Part
of the House*

Rep. Scanlan, Graf. 11

Rep. Terninko, Rock. 2

Rep. W. Boucher, Rock. 23

Rep. Ward, Graf. 1

AMENDED ANALYSIS

This bill places all hazardous waste transporter permit application fees in the hazardous waste cleanup fund. This bill adds definitions relative to hazardous waste and increases the limit on the use of fund moneys by the division of waste management from \$325,000 to \$600,000.

This bill requires any fuel supplier who installs a fuel heating system, where a fuel oil heating system already exists, to secure piping and provide a written recommendation to the property owner for the purposes of conversion notification.

This bill prohibits the filling or refilling of liquefied petroleum gas containers by anyone other than the owner or a person authorized in writing by the owner.

This bill also increases from 9 to 11 the membership of the state advisory board of fire control.

Senator W. King moved to adopt the Committee of Conference Report.

Adopted.

6093L

COMMITTEE OF CONFERENCE REPORT ON HB 497-FN-A

The committee of conference to which was referred House Bill 497-FN-A, An Act relative to an equipment challenge grant program for vocational and technical education programs having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and

That the Senate recede from its position in adopting its amendment to the bill, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the section heading of RSA 188-F:42 as inserted by section 2 of the bill by replacing it with the following:

188-F:42 Committee Established; Members; Project Director.

Amend RSA 188-F:42, III as inserted by section 2 of the bill by replacing it with the following:

III. When funding is available a project director may be hired upon recommendation of the steering committee. Until that time, the state council for vocational education will provide technical assistance and limited resources. Action committees shall be appointed in each of the 3 program areas by the steering committee to give specific advice and direction to the steering committee. Each action committee shall be chaired by a member of the steering committee and shall include at least one additional member of the steering committee, along with representatives of those affected by each program and individuals who have expertise in those areas.

Amend the bill by replacing all after section 2 with the following:

3 Appropriation. The sum of \$1 is hereby appropriated for the biennium ending June 30, 1993, to the department of postsecondary technical education for the purposes of this act. Such funds shall be nonlapsing. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

4 Effective Date. This act shall take effect July 1, 1992.

*Conferees on the Part
of the Senate*

Sen. Hough, Dist. 5
Sen. Blaisdell, Dist. 10
Sen. Disnard, Dist. 8

*Conferees on the Part
of the House*

Rep. C. Brown, Graf. 13
Rep. Hoelzel, Rock. 16
Rep. Domaingue, Hills. 42
Rep. Yeaton, Merr. 7

AMENDED ANALYSIS

This bill creates a steering committee which shall be responsible for directing and developing an equipment challenge grant program for vocational and technical education programs.

The committee shall focus on establishing the following 3 programs: a program for a vocational-technical resource collaborative, a program for educational administrators training initiative, and an instructional equipment needs challenge grant program.

The steering committee shall submit a report no later than October 1, of each subsequent biennium. The report shall include the committee's progress in the establishment of the 3 programs outlined and recommendations for their continued development.

The bill makes an appropriation to the committee for the purposes of the program.

Senator Hough moved to adopt the Committee of Conference Report.

Adopted.

6115L

COMMITTEE OF CONFERENCE REPORT ON HB 601-FN-A

The committee of conference to which was referred House Bill 601-FN-A, An Act establishing a public water access advisory board and a statewide public boat access program and continually appropriating a special fund for the purposes of the program and creating a new class of highways for access to public waters having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend RSA 233-A:2, I as inserted by section 2 of the bill by replacing it with the following:

233-A:2 Public Water Access Advisory Board.

I. A public water access advisory board is hereby established. This board shall be composed of the following:

(a) The executive director of the fish and game department or designee.

(b) The commissioner of the department of resources and economic development, or designee.

(c) The commissioner of the department of environmental services, or designee.

(d) The commissioner of the department of transportation or designee.

(e) The commissioner of the department of safety, or designee.

(f) The director of the office of state planning or designee.

(g) Two members of the general public appointed by the governor and council for 3-year staggered terms, with one being designated as the chairperson. The first appointed member shall serve an initial 2-year term.

(h) Two senators, appointed by the president of the senate.

(i) Two house members, one from the resources and recreation committee and one from the fish and game committee, appointed by the speaker of the house.

(j) A public member representing hunting interests, appointed by the governor and council.

(k) A public member representing fishing interests, appointed by the governor and council.

(l) A public member representing power boating interests, appointed by the governor and council.

(m) A public member representing a lakes association, appointed by the governor and council.

(n) A public member representing a rivers association, appointed by the governor and council.

(o) A person representing non-motorized boating interests, appointed by the governor and council.

(p) A member of the governor's commission on disability appointed by the governor and council.

Amend RSA 233-A:2, V as inserted by section 2 of the bill by replacing it with the following:

V. The fish and game department shall provide administrative support for the public access advisory board, including, but not limited to, a meeting room, meeting notification and postage.

Amend RSA 233-A:11 as inserted by section 2 of the bill by replacing it with the following:

233-A:11 Public Water Supply. No public boat access area shall be constructed to any public waters which serve as a public water supply for a public or private water utility company, without the approval of the department of environmental services, and notification to the public utilities commission for any water utility under its jurisdiction.

*Conferees on the Part
of the Senate*

Sen. Heath, Dist. 3

Sen. McLane, Dist. 15

Sen. Cohen, Dist. 24

*Conferees on the Part
of the House*

Rep. Dickinson, Carr. 2

Rep. Conroy, Rock. 7

Rep. Jankowski, Straf. 5

Rep. A. Wiggin, Carr. 4

Senator Heath moved to adopt the Committee of Conference Report.

Adopted.

6052L

COMMITTEE OF CONFERENCE REPORT ON HB 646-FN

The committee of conference to which was referred House Bill 646-FN, An Act relative to the disposal of certain solid waste products and leaf and yard waste having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by deleting section 4 and renumbering the original section 5 to read as 4.

*Conferees on the Part
of the Senate*

Sen. W. King, Dist. 2

Sen. Fraser, Dist. 4

Sen. Currier, Dist. 7

*Conferees on the Part
of the House*

Rep. Hanselman, Hills. 17

Rep. I. Messier, Hills. 45

Rep. Terninko, Rock. 2

Rep. Tarpley-Bamberger, Hills. 9

Senator W. King moved to adopt the Committee of Conference Report.

Adopted.

6089L

COMMITTEE OF CONFERENCE REPORT ON HB 675-FN

The committee of conference to which was referred House Bill 675-FN, An Act relative to DWI penalties while operating a motor vehicle, OHRV, or boat or while transporting a child having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the introductory paragraph of RSA 262:44 as inserted by section 23 of the bill by replacing it with the following:

262:44 Waiver in Lieu of Court Appearance. Any person charged with a violation of the provisions of title XXI on vehicles, excluding a violation of RSA 263:1-a, 265:79, 265:82, 265:82-a, 265:115, 265:117, a speeding offense under RSA 265:60 for which the defendant must appear in court, and any offense which is a misdemeanor or felony, may plead guilty, nolo contendere, or not guilty by mail in the following manner:

Amend RSA 262:44, III as inserted by section 23 of the bill by replacing it with the following:

III. The uniform fine schedule referred to in paragraph I shall be developed and promulgated by the New Hampshire supreme court after approval by the legislative fiscal committee.

Amend RSA 502-A:19-b, I as inserted by section 24 of the bill by replacing it with the following:

I. Such defendant shall receive, in addition to his summons, a uniform fine schedule entitled "Notice of Fine, New Hampshire District and Municipal Courts" which shall contain the [normal fines for violations of the provisions of title XXI on vehicles, excluding violations of RSA 265:79, 265:82 or any offense for which the penalty is a misdemeanor or felony; the] normal fines for violations of the provi-

sions of RSA 270, 270-A, and 270-E, excluding any offense [for] which [the penalty] is a misdemeanor or felony; and the normal fines for violations of the provisions of title XVIII on fish and game laws, excluding any offense [for] which [the penalty] is a misdemeanor or felony. The defendant shall be given a notice of fine indicating the amount of the fine plus penalty assessment at the time the summons is issued; except if, for cause, the summoning authority wishes the defendant to appear personally. Defendants summoned to appear personally must do so on the arraignment date specified in the summons, unless otherwise ordered by the court. Defendants who are issued a summons and notice of fine and who wish to plead guilty or nolo contendere shall enter their plea on the summons and return it with payment of the fine plus penalty assessment to the clerk of the court prior to the arraignment date or appear in court on the date of arraignment. Defendants in violation of the provisions of title XVIII shall be subject to the provisions of RSA 207:18 and RSA 214:19.

Amend the bill by replacing all after section 24 with the following:

25 New Section; Arrest Warrants; Notification of State Police. Amend RSA 491 by inserting after section 24 the following new section:

491:25 Arrest Warrants; Copies Transmitted to State Police. A copy of each arrest warrant issued by a court shall be transmitted by computer to the division of state police. The state police shall make information regarding the warrant available to the arresting police department and all local police departments and sheriffs. In the eleventh month after the warrant is issued, the state police shall contact the court which issued the warrant for updated information and the court shall reissue the warrant if the state still has a case against the defendant.

26 New Section; District Courts; Arrest Warrants; Notification of State Police. Amend RSA 502-A by inserting after section 27-d the following new section:

502-A:27-e Arrest Warrants; Copies Transmitted to State Police. A copy of each arrest warrant issued by a court shall be transmitted by computer to the division of state police. The state police shall make information regarding the warrant available to the arresting police department and all local police departments and sheriffs. In the eleventh month after the warrant is issued, the state police shall contact the court which issued the warrant for updated information and the court shall reissue the warrant if the state still has a case against the defendant.

27 Appropriation. The sum of \$75,000 for the fiscal year ending June 30, 1993 is hereby appropriated to the department of safety for the purposes of sections 23-26 of this act. Notwithstanding RSA 263:56-d, this appropriation shall be a charge exclusively on the DWI

bench warrant fund and is contingent on the availability of money in the DWI bench warrant fund. Notwithstanding the provisions of RSA 21-P:23, moneys shall not be transferred from the highway surplus account to fund this appropriation. The governor is authorized to draw his warrant for said sum from the DWI bench warrant fund.

28 Contingency. Sections 23-26 of this act shall take effect for the courts in Rockingham county on January 1, 1993. For the courts in the remaining counties, sections 23-26 of this act shall take effect as each court is computerized in coordination with the division of motor vehicles, beginning in January, 1994 and continuing thereafter in each jurisdiction as each court is computerized.

29 Effective Date.

I. Section 27 of this act shall take effect July 1, 1992.

II. Section 28 of this act shall take effect upon its passage.

III. Sections 23-26 of this act shall take effect as provided in section 28 of this act.

IV. The remainder of this act shall take effect January 1, 1993.

*Conferees on the Part
of the Senate*

Sen. Hollingworth, Dist. 23

Sen. Nelson, Dist. 13

Sen. Russman, Dist. 19

*Conferees on the Part
of the House*

Rep. Lozeau, Hills. 25

Rep. R. Campbell, Belk. 5

Rep. C. W. Johnson, Merr. 5

Rep. Baldizar, Hills. 22

Senator Hollingworth moved to adopt the Committee of Conference Report.

Adopted.

6085L

COMMITTEE OF CONFERENCE REPORT ON HB 689-FN

The committee of conference to which was referred House Bill 689-FN, An Act relative to implied consent and administrative motor vehicle license suspension having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and

That the Senate recede from its position in adopting its amendment to the bill, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the bill by replacing section 1 with the following:

1 Reference Change; License Revocation or Denial. Amend RSA 263:75 to read as follows:

263:75 Appeal. If the revocation, **suspension** or determination

that there should be a denial of issuance is sustained after a hearing as provided in [RSA 263:74] **265:91-b**, a person whose license or driving privilege has been revoked or to whom a license is denied under the provisions of this chapter shall have the right to file a petition in the superior court in the county in which he was arrested to review the final order of revocation or denial by the director or his authorized agent within 30 days of the date of the final order. Jurisdiction to hear such appeals is vested in the superior court, and it shall be the duty of the court to grant a hearing as soon as practicable after notice to the director and the petitioner, but in no event less than 14 days after notice has been provided to the director. The court shall hear the appeal de novo and shall order that the revocation or denial be rescinded or sustained.

Amend the bill by replacing section 4 with the following:

4 Reference Change; Hearing and Appeal. Amend RSA 263:96, VI to read as follows:

VI. The driver shall have the opportunity for a hearing and appeal as provided in RSA [263:74 and] 263:75 **and RSA 265:91-b**.

Amend RSA 265:91-d as inserted by section 7 of the bill by replacing it with the following:

265:91-d Appeal. Any person aggrieved by a decision of the department under this section, after the administrative review or hearing, may appeal the decision as provided in RSA 263:75. Notwithstanding any provision of RSA 263:75 to the contrary, such appeal shall be to the Merrimack county superior court.

Amend the bill by replacing all after section 10 with the following:

11 Implementation; Funding. The proceeds of the \$10 increase in the license reinstatement fee imposed by section 3 of this act are appropriated to the department of safety for the purpose of implementation of the provisions of this act, subject to approval by the fiscal committee.

12 Repeal. RSA 263:74, relative to administrative review, is hereby repealed.

13 Effective Date.

I. Section 3 of this act shall take effect 60 days after its passage.

II. The remainder of this act shall take effect January 1, 1993.

*Conferees on the Part
of the Senate*

Sen. Russman, Dist. 19

Sen. Colantuono, Dist. 14

Sen. Hollingworth, Dist. 23

*Conferees on the Part
of the House*

Rep. Lozeau, Hills. 25

Rep. R. Campbell, Belk. 5

Rep. Knowles, Straf. 7

Rep. Bickford, Straf. 10

Senator Russman moved to adopt the Committee of Conference Report.

Adopted.

6039L

COMMITTEE OF CONFERENCE REPORT ON HB 758-FN

The committee of conference to which was referred House Bill 758-FN, An Act relative to the right to privacy act having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend RSA 359-C:10, II and III as inserted by section 10 of the bill by replacing them with the following:

II. Without limiting in any way the authority of the grand jury, a grand jury is authorized to and may, upon a resolution adopted by a majority of its members, obtain financial[,] or credit [or other] records pursuant to a subpoena duces tecum bearing the authenticating signature of the clerk of court. **The grand jury may appoint, by resolution, any person as its agent for purposes of receiving the information set forth in the subpoena. Notwithstanding RSA 359-C:4, IV, the grand jury may further adopt a resolution prohibiting any owner, officer, director, partner, employee, agent or attorney from a financial institution from notifying any person named in a subpoena about the existence or contents of such subpoena or that information has been furnished to a grand jury in response to such subpoena. Such resolution shall continue until such time as the customer has been notified pursuant to RSA 359-C:10, III, at which time the grand jury shall so notify the financial institution.**

III. Upon issuing such subpoena or subpoena duces tecum, the judge shall order the grand jury to notify the customer in writing within [30] 180 days of such issuance; provided, however, that the judge may shorten the [30] 180 day period or, upon a showing of good cause, may extend such period beyond [30] 180 days, but [not beyond the date on which such grand jury is to be discharged] **in no event beyond 360 days.** The notice shall specify the financial or credit records which were examined and the reason for such examination.

*Conferees on the Part
of the Senate*

Sen. Podles, Dist. 16

Sen. Russman, Dist. 19

Sen. Hollingworth, Dist. 23

*Conferees on the Part
of the House*

Rep. N. Ford, Hills. 24

Rep. Jacobson, Merr. 2

Rep. Lockwood, Merr. 6

Rep. Wall, Straf. 4

Senator Podles moved to adopt the Committee of Conference Report.

Adopted.

6113L

COMMITTEE OF CONFERENCE REPORT ON HB 778-FN

The committee of conference to which was referred House Bill 778-FN, An Act relative to the laws against discrimination having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House each pass the bill as amended by the Senate.

*Conferees on the Part
of the Senate*

Sen. Podles, Dist. 16

Sen. Nelson, Dist. 13

Sen. Russman, Dist. 19

*Conferees on the Part
of the House*

Rep. Tufts, Rock. 13

Rep. McCarthy, Rock. 18

Rep. Calawa, Hills. 14

Rep. Hambrick, Straf. 4

Senator Podles moved to adopt the Committee of Conference Report.

Adopted.

6065L

COMMITTEE OF CONFERENCE REPORT ON HB 1005

The committee of conference to which was referred House Bill 1005, An Act relative to the reapportionment of house districts within cities and the election of delegates to state party conventions having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing section 11 with the following:

11 Alternative Method for Determining Date and Calling State Party Convention. Amend RSA 667:21 to read as follows:

667:21 Date, Call and Purposes.

I. Not earlier than the third Tuesday of September following any primary, and not later than the last Tuesday of October, upon the call of the chairman of the state committee of the party, the nominees of each party for the offices of governor, United States senator, United States representative, executive councilors, state senators, county officers, representatives, state delegates elected, and the incumbent United States senator or senators whose term or terms shall not expire during the January following that year's general election, shall meet in state convention for the purpose of adopting the platform of their party, nominating presidential electors and effecting an organization for the following 2 years. The names and domiciles of the presidential electors nominated by such convention shall be forthwith certified to the secretary of state by the chairman and the clerk of the convention. Upon receipt of the foregoing certifications, the secretary of state shall publish in some paper of general circulation the names of the persons found by him to have been chosen as candidates for presidential electors by the several parties.

II. Notwithstanding the provisions of paragraph I, a political party may, in accordance with the provisions of the party's constitution or bylaws, provide for an alternative method of determining the date, call and purpose of the party's state convention and the selection of delegates and composition of such convention. If a party decides to hold a convention for the purpose of adopting a platform of the party, nominating presidential electors, effecting an organization for the following 2-year period and other party business as the political party determines, the convention shall be deemed to satisfy the requirements of the party under this section.

12 Effective Date.

I. Sections 1-9 of this act shall take effect as provided in section 10.

II. Sections 10 and 11 of this act shall take effect upon its passage.

*Conferees on the Part
of the Senate*

Sen. Dupont, Dist. 6
Sen. Roberge, Dist. 9
Sen. Disnard, Dist. 8

*Conferees on the Part
of the House*

Rep. Holden, Hills. 9
Rep. Flanagan, Rock. 8
Rep. Cowenhoven, Hills. 9
Rep. Trombly, Merr. 4

AMENDED ANALYSIS

This bill reapportions state representative districts in cities and specifies how delegates to state party conventions are to be elected. The bill is contingent on the passage of HB 591.

The bill also allows a political party, in accordance with the provisions of the party's constitution or bylaws, to provide for an alternative method of determining the date, call and purpose of the party's state convention.

Senator Roberge moved to adopt the Committee of Conference Report.

Adopted.

Recess.

Senator Delahunty in the Chair.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and Senate Bills:

HB 263, establishing a fee structure for used oil marketers.

HB 446, relative to the board of registration in medicine and relative to the definition of psychologist.

HB 469, relative to improvements on route 106 and making an appropriation therefor.

HB 1308, relative to technical changes to the municipal charter laws and relative to the establishment of a charter commission in the town of Salem.

HB 1462, establishing a committee to examine all aspects of parole eligibility.

HB 1471 changing the penalties for theft of timber from another person's land or for altering the mark of any mill log belonging to another person.

SB 355, requiring that deposits for the purchase or other disposition of manufactured housing be held in escrow accounts.

SB 392, relative to guardians ad litem and establishing a committee to study the appointment, use, and compensation of guardians ad litem.

SB 427, requiring the registration of sexual offenders.

SB 453, relative to involuntary commitment procedures.

6191L

COMMITTEE OF CONFERENCE REPORT ON HB 1026

The committee of conference to which was referred House Bill 1026, An Act relative to a companion bill to the supplemental budget having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

1 Borrowing Money. Amend RSA 6:13, II to read as follows:

II. Unless otherwise provided by the governor and council, the treasurer shall have the authority to borrow at one time, or from time to time, up to the aggregate amount authorized by the governor and council under this section, and to determine the amounts, dates, maturities, and other details of each borrowing[, provided that each such indebtedness shall be repaid from revenues within one year].

2 Revenue Stabilization Reserve Account; Reference Point Changed to Biennium. Amend RSA 9:13-e to read as follows:

9:13-e Revenue Stabilization Reserve Account.

I. Notwithstanding the definition of "budget" in RSA 9:1, for purposes of this section the term "budget" means the operating budget in effect for the appropriate fiscal [year] **biennium**.

II. There is hereby established within the general fund general ledger a revenue stabilization reserve account. At the close of each fiscal [year] **biennium**, any surplus, as determined by the official audit performed pursuant to RSA 21-I:8, I(h) shall be transferred by the comptroller to a special nonlapsing revenue stabilization reserve account. The comptroller is hereby directed to establish said revenue stabilization reserve account in which to deposit all money received from any general fund operating budget surplus. The state treasurer shall invest funds in this account as authorized by RSA 6:8. The interest so earned shall be deposited as unrestricted general fund revenue.

III. In the event of a general fund operating budget deficit at the close of any fiscal [year] **biennium** as determined by the official audit performed pursuant to RSA 21-I:8, I(h), the comptroller shall notify the fiscal committee and the governor of such deficit and request that sufficient funds, to the extent available, be transferred from the revenue stabilization reserve account to eliminate such deficit. Such transfer may be made only when both of the following conditions have been met:

(a) A general fund operating budget deficit occurred for the most recently completed fiscal [year] **biennium**; and

(b) Unrestricted general fund revenues in the most recently completed fiscal [year] **biennium** were less than the budget forecast. The amount of said transfer shall not exceed a sum equal to the lower of the amount of the deficit in subparagraph (a) or the revenue shortfall in subparagraph (b). Upon receipt of approval from both the fiscal committee and the governor, the comptroller shall immediately transfer the sums so approved to the general fund surplus account.

IV. No available balance in the revenue stabilization reserve account shall be utilized for any purpose other than those authorized by paragraphs II and III, without the specific approval of 2/3 of each house of the general court and the governor.

V. If, after the requirements of paragraphs II-IV have been met and the balance remaining in the revenue stabilization reserve account is in excess of an amount equal to 5 percent of the actual general fund unrestricted revenues for the most recently completed fiscal year, then such excess shall be transferred, without further action, to the general fund surplus account.

3 Reclassification of Positions or Increases. RSA 21-I:56 is repealed and reenacted to read as follows:

21-I:56 Reclassification of Positions or Increases.

I. Any request for reclassification of a position to a different class series as provided in RSA 21-I:54 shall require the approval of governor and council.

II. Any request to increase the salary of a classified position beyond grade 34 as provided in RSA 99:8 shall require the approval of the fiscal committee of the general court before it is submitted to the governor and council for its approval.

III. Notwithstanding the provisions of RSA 9:16, 9:17 and 17-a, whenever the director of personnel in consultation with the affected department shall determine that the personal services-permanent line item in any PAU and the salary adjustment fund cannot cover the cost of funding a reclassification and a transfer of funds from other line items is required, the director of personnel shall notify the governor and council and the fiscal committee as soon as possible. No such transfer shall be permitted without approval first of the fiscal committee and then of governor and council.

4 Salary. Amend RSA 94:1-a, I by deleting in group M the following: manager, planning and support, division of information services.

5 Repeal. 1991, 346:17, relative to an appropriation to the office of information technology management, the department of administrative services and the department of health and human services, is repealed.

6 Port Authority Duties; Waiting Lists. Amend RSA 271-A:3, V(a) to read as follows:

V.(a) Be authorized to set and collect fees for mooring and slip permits **and waiting lists for such permits**.

7 Port Authority Rulemaking; Waiting Lists. Amend RSA 271-A:4, III to read as follows:

III. Setting and collecting fees for moorings, slips, **waiting lists** and pilotage. A table of such fees shall be attached to the commission of each pilot.

8 Marriage Fees; Reference Change. Amend RSA 457:29 to read as follows:

457:29 Marriage License Fee. The fee for the marriage license shall be \$40 to be paid by the parties entering into the marriage. The clerk shall forward \$33 from each fee to the [state treasurer] **department of health and human services** for the purposes of RSA 173-B:13. The clerk shall retain the remaining \$7 as his fee for making the records of notice, issuing the certificate of marriage, and forwarding the \$33 portion of the marriage license fee.

9 Marriage Fees; Reference Change. Amend RSA 457:29 to read as follows:

457:29 Marriage License Fee. The fee for the marriage license shall be \$20 to be paid by the parties entering into the marriage. The clerk shall forward \$13 from each fee to the [state treasurer] **department of health and human services** for the purposes of RSA 173-B:13. The clerk shall retain the remaining \$7 as his fee for making the records of notice, issuing the certificate of marriage, and forwarding the \$13 portion of the marriage license fee.

10 Dog License Fees; Reference Change. Amend RSA 466:9 to read as follows:

466:9 Payment of Fees.

I. Clerks of the towns and cities shall issue said licenses, receive the money therefor and pay the same into the treasuries of their respective towns and cities on or before June 1 each year, retaining to their own use \$.50 for each license and submitting \$.50 for each license to the [state treasurer] **department of agriculture** for the purpose specified in paragraph II. The clerks shall return to their respective town or city treasurer a sworn statement of the amount of moneys thus received and paid over by them.

II. The \$.50 received by the [state treasurer] **department of agriculture** for each license issued pursuant to paragraph 1 shall be credited to a special nonlapsing fund to be used exclusively for the operation of the veterinary diagnostic laboratory established under RSA [443:96] **436:92**, and are hereby continually appropriated for such purpose to be expended under the supervision of the commissioner of agriculture.

11 Vital Records Fees. Amend RSA 126:15, II to read as follows:

II. The town clerk shall forward \$6 of each fee collected under this section to the [state treasurer] **division of public health services** for deposit in the vital records improvement fund established under RSA 126:31. The town clerk shall retain the remaining \$4 as his fee for issuing such a copy.

12 State Treasurer; Vital Records Improvement Fund. Amend RSA 6:12, I(tt) to read as follows:

(tt) Moneys received [from the town clerk] **by the division of public health services** under RSA 126:13, II, which shall be credited to the vital records improvement fund established in RSA 126:31.

13 New Subparagraph; State Treasurer; Veterinary Diagnostic Laboratory Fund. Amend RSA 6:12, I by inserting after subparagraph (uu) the following new subparagraph:

(vv) Moneys received by the department of agriculture under RSA 466:9 which shall be credited to the fund established in RSA 466:9, II.

14 National Guard Scholarship Fund. Notwithstanding the provisions of RSA 110-B:60 and 110-B:61, the amount of \$42,000 from the national guard scholarship fund shall lapse to the general fund on June 30, 1992.

15 Capital Appropriation; University System of New Hampshire; Renewal and Adaptation of Existing Facilities System-Wide.

I. There is hereby appropriated \$7,000,000 to the university system of New Hampshire for the purpose of, but not limited to, the meeting of life, safety and handicapped code requirements, upgrading of mechanical systems, repairs to roads and walkways, removal of asbestos and other hazardous materials and roof repairs and replacements at existing facilities.

II. \$5,000,000 of the appropriation shall be available to the university system on or after July 1, 1992. The remaining \$2,000,000 shall be available to the university system on or after January 1, 1993.

III. For the purposes of this section "existing facilities" means facilities owned by the university system on the effective date of this section.

IV. The funds appropriated in this section shall not be spent, obligated or encumbered until such time as the university system of New Hampshire has developed an action plan and received the approval of such plan from the capital budget overview committee. Action plans shall be developed and approved prior to the distribution of the \$5,000,000 and again before the distribution of the remaining \$2,000,000.

16 Bonds Authorized. To provide funds for the appropriation made in section 15 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$7,000,000 and for said purpose shall issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A. The payment of principal and interest on the bonds or notes issued under this section shall be made when due from the general funds of the state.

17 Expenditures; University System of New Hampshire.

I. The appropriation made in section 15 shall be expended by the trustees of the university system of New Hampshire. All contracts for the renewal and adaptation of existing facilities shall be let only after competitive sealed bids have been received and only after an advertisement calling for such bids has been published at least once in each of 2 successive calendar weeks in a newspaper of general circulation in New Hampshire or in a trade journal known to be circulated among the contractors from whom bids will be sought with the state of New Hampshire or elsewhere in the area. The first publication of such advertisement shall be not less than 30 days prior to the date the bids will be received. All conditions considered, wherever possible, it is recommended that the services of New Hampshire architectural and construction firms be considered within the discretion of the trustees.

II. The appropriation made in section 15 is available for all costs incidental to the renewal and adaption of existing facilities including the costs of the services of architects, engineers, and other consultants of such kind and capacity as the university system board of trustees may, in its discretion, wish to employ on such terms and conditions as the board determines. These moneys shall be spent under the direction of the university system board of trustees.

III. If, in the judgment of the trustees of the university system, just cause exists indicating the lowest bid should be rejected, then the contract may be awarded to the next lowest bidder; or, if the next lowest bid should be rejected, the contract may be awarded to the third lowest bidder.

IV. The board of trustees of the university system has the right to reject any and all bids and, if the lowest bid is in excess of the appropriation, the board has the right to negotiate with the low bidder or with the 3 lowest bidders for a contract for the construction upon terms considered most advantageous to the university. If only one bid is received, the board of trustees may negotiate a contract for the renewal and adaption of existing facilities on terms considered most advantageous to the university system and to the state. Any authorization contained in this act which is at variance with the

requirements of applicable federal law and regulations shall be controlled by the terms of the federal law and regulations.

18 Skyhaven Renovation and/or Replacement. Amend 1991, 351:1, X, A, 2 to read as follows:

2. Skyhaven - renovate **and/or replace**

administration building	85,000
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19 Skyhaven; Appropriation Increased. Amend 1988, 152:1 to read as follows:

152:1 Appropriation. There is hereby appropriated to the department of transportation the sum of [\$400,000] **\$550,000** for the purpose of designing and constructing additional hangar facilities at Skyhaven airport.

20 Skyhaven; Bonds. Amend 1988, 152:2, as amended by 1989, 367:25 to read as follows:

152:2 Bonds Authorized. To provide funds for the appropriation made in section 1 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of [\$400,000] **\$550,000** and for said purpose shall issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A. The bonds shall be 10-year bonds. The interest and principal due on the bonds or notes issued under this paragraph shall be a direct charge against the Skyhaven hangar revenues, but the faith and credit of the state shall be pledged for the payment of the bonds.

21 Appropriation; Division of Aeronautics. The sum hereinafter detailed is hereby appropriated to the department of transportation, division of aeronautics, for the projects specified.

I. Lebanon Airport - general aviation

apron expansion, taxiway to runway 36	\$1,415,000
Less federal	- 1,273,500
Less local	- 70,750
Total appropriation paragraph I	\$ 70,750

22 Bonds Authorized. To provide funds for the total of the appropriation of state funds made in section 21 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$70,750 and for said purposes may issue bonds and notes in the name and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A.

23 Payments. The payment of principal and interest on bonds and notes issued for the project in section 21 shall be made when due from the general funds of the state.

24 Appropriation for Department of Transportation; Consolidated Federal Aid. Amend 1991, 312:1.04, 01, 03, 10, 02 by replacing it with the following:

04 Transportation

01 Department of transportation

03 Project development division

10 Matching funds

02 Consolidated federal aid

41 Audit fund set aside	D	53,492	62,672
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90 Other expenditures		58,858,904	70,284,680
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Total		58,912,396	70,347,352
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Estimated source of funds for

Consolidated federal aid

00 Federal funds		53,492,017	62,672,000
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05 Private local funds		650,000	650,000
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09 Other agency income		1,500,000	
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Highway funds		3,270,379	7,025,352
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Total		58,912,396	70,347,352
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25 Department of Transportation; Betterments; State Bridge Aid.
Amend PAU 04, 01, 03, 11, 01 as inserted by 1991, 312:1 as follows:

		FY 92	FY 93
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Strike out:

90 Betterments/state bridge aid	D	9,772,000	9,772,000
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01 Other agency funds		9,772,000	9,772,000
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Insert in place thereof:

90 Betterments/state bridge aid	G	13,447,000	9,772,000
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Total		13,447,000	9,772,000
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Estimated source of funds
for betterment

01 Other agency funds		10,447,000	9,772,000
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Highway funds		3,000,000	0
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Total		13,447,000	9,772,000
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26 Contingency. If HB 1025-A, "An Act relative to budget adjustments for fiscal years 1992 and 1993" becomes law, sections 24 and 25 of this act shall take effect at 12:01 a.m. on the effective date of HB 1025-A. If HB 1025-A does not become law, sections 24 and 25 of this act shall take effect upon its passage.

27 New Subparagraph; Mt. Sunapee Snowmaking for Cataract/Fox Run Appropriation Added. Amend 1991, 351:1, VIII by replacing all after subparagraph B, 7 with the following:

8. Sunapee - Cataract/Fox Run snowmaking	<u>\$ 100,000</u>
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Total subparagraph B	<u>\$ 1,640,000</u>
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Total state appropriation paragraph VIII	\$ 3,140,000
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28 Appropriation Amount Reference Changed. Amend 1991, 351:1 by replacing the total state appropriation for section 1 with the following:

Total state appropriation section 1	\$34,381,095
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29 Bonds; Reference Changed. Amend 1991, 351:10 to read as follows:

351:10 Bonds Authorized. To provide funds for the total of the appropriations of state funds made in sections 1, 2, 3, 4, 5, 6, and 7 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of [\$79,280,845] **\$79,380,845** and for said purposes may issue bonds and notes in the name and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A. In order to provide funds to pay the cost of issuing the bonds authorized by this section, the state treasurer may issue bonds up to 102 percent of the authorized amounts. The proceeds from the additional bonds may be used only for the purpose of paying such issuance costs.

30 New Hampshire Economic Development Fund; Appropriation Increased. Amend 1991, 4:22 and 4:23 to read as follows:

4:22 Appropriation. The sum of [\$5,000,000] **\$5,750,000** is hereby appropriated to the department of resources and economic development for the purpose of carrying out the provisions of section 21 of this act. These funds shall be in addition to any other funds appropriated to the department and shall be nonlapsing.

4:23 Bonding Authorization. To provide funds for the appropriation made in section 22 of this act, the state treasurer is hereby authorized to borrow upon the credit of this state not exceeding the sum of [\$5,000,000] **\$5,750,000** and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A, provided that such bonds shall be 15-year bonds.

31 Department of Administrative Services; Hanover-Lebanon District Court Capital Appropriation. The sum of \$500,000 is hereby appropriated to the department of administrative services for the purpose of acquiring, purchasing, entering into a lease purchase agreement, or leasing land or buildings or land and buildings and to construct or renovate, and furnish such buildings as is necessary to establish the Hanover-Lebanon district court. The department of administrative services is authorized to negotiate the acquisition, purchase or lease of such land and building within the limits of the appropriated amount. A resulting purchase contract shall receive such review and approval as required by state law. This appropriation is in addition to any other funds appropriated to the department of administrative services.

32 Bonds Authorized. To provide funds for the total of the appropriation of state funds made in section 31 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$500,000 and for said purpose may issue bonds and notes in the name and on behalf of the state of New Hampshire

in accordance with the provisions of RSA 6-A. The payment of principal and interest on bonds and notes issued for such project shall be made when due from the general funds of the state.

33 New Paragraph; Department of Justice Duty. Amend RSA 21-M:5 by inserting after paragraph V the following new paragraph:

VI. Submit every 6 months to the joint legislative fiscal committee a report detailing each expenditure approved under RSA 7:12.

34 Department of Justice Expenditure Report. The attorney general shall submit the first report required under section 33 of this act 90 days after the effective date of this section.

35 New Subparagraph; Medical Benefits Payment by Retirement System. Amend RSA 100-A:52, I by inserting after subparagraph (e) the following new subparagraph:

(f) Any person who retired prior to July 1, 1988, and who had completed no less than 20 years of group II service, but had not attained the age of 45.

36 Health Services Change From Department of Health and Human Services to Legislative Facilities Committee. Amend RSA 125:13-a to read as follows:

125:13-a [First-Aid] **Health Service** Room. The [department of health and human services, division of public health services,] **legislative facilities committee** shall equip and maintain a [first-aid] **health service** room in such location in the state house as may be assigned for such purpose [by the governor and council]. Said room shall be staffed by a **licensed registered nurse** employed by the [division of public health services] **legislative facilities committee**, and said room shall be kept open at all times when the state house is open for business. The expense of the [first-aid] **health service** room shall be a charge upon the [funds of the division of public health services] **joint expenses appropriation to the general court. The division of public health services shall provide back-up.**

37 Allocation of Fees as Matching Funds. Amend RSA 204-C:59, I to read as follows:

I. Fees paid to the authority from the development of qualified residential rental projects financed by bonds issued under section 142(d) of the Internal Revenue Code of 1986, as amended, including projects in operation as of July 1, 1988, **provided, however, that the authority may also allocate such fees as matching funds for federal housing programs such as the Home Investment Partnership Program as established by the National Affordable Housing Act of 1990.**

38 Purpose. The general court finds that conventional private financing mechanisms may fail to ensure that the state's citizens are able to maintain stable housing arrangements when property values and personal income are declining. The general court further finds

that eligible persons and families may require assistance from the state in order to obtain optional financial arrangements from private entities. It is hereby declared that the governor and council, the state treasurer, and the housing finance authority shall be performing a governmental function, advancing a public purpose, and conferring a public benefit in carrying out the provisions of section 39 of this act.

39 New Subdivision; Housing Security Program. Amend RSA 204-C by inserting after section 79 the following new subdivision:

Housing Security Program

204-C:80 Purpose. The purpose of this subdivision is to assist eligible persons and families to obtain private financing necessary to maintain decent, safe, sanitary and affordable housing. It is the intent of the general court that this purpose be achieved through the issuance of guarantees in support of certain home mortgage loans.

204-C:81 Home Mortgage Guarantees.

I. Upon application from a lender operating in this state in such form as the authority may require, the authority may issue, or commit itself to issue, a certificate of guarantee to the lender, or its assigns, of a principal residence loan. The total principal amount of any principal residence loan guaranteed under this section shall not exceed the sum of:

(a) Ten percent of the fair market value of the principal residence as determined by an independent third-party appraisal commissioned by the lender in connection with approving the loan;

(b) The amount of any payments of principal and interest which are in arrears under the terms of the existing mortgage loan incurred to acquire, construct or substantially improve such principal residence; and

(c) The amount of any local property taxes assessed with respect to such principal residence which have not been paid, and interest chargeable against such delinquent taxes.

II. The state's guarantee of a loan under this section shall be evidenced by a guarantee certificate issued by the authority on behalf of the state. Such guarantee certificate shall contain such terms and conditions as the authority may impose, including, without limitation, restrictions on the use of loan proceeds, provisions for reimbursement of the state if the state is required to honor the guarantee, appropriate financial covenants, and provisions for the establishment of reserves. In addition, as a condition of awarding any guarantee, the state shall be subrogated to all of the rights and security of the lender to the extent it honors the guarantee.

III. The full faith and credit of the state shall be pledged in support of any such guarantee, provided that the aggregate amount of principal residence loans guaranteed under this section shall not exceed \$5,000,000. In satisfaction of that pledge, the state treasurer shall advance to the authority from available cash in the treasury or from proceeds of bonds or notes amounts as may be requested from time to time by the authority to enable it to perform all guarantee obligations punctually and in accordance with their terms. The authority shall request such advances from time to time as additional amounts are required for such purpose.

IV. For the purposes of this section:

(a) "Principal residence" means a residence that is the primary residence of the eligible persons and families and does not include a residence that is used (1) primarily in a trade or business, (2) as an investment property or (3) as a recreational, vacation or second home. The term principal residence does include structures containing not more than 4 residential units, one of which is owner occupied.

(b) "Principal residence loan" means any loan which meets the following requirements:

(1) Repayment of principal and interest on the loan is secured by a first mortgage lien on the borrower's principal residence;

(2) The loan replaces or refinances existing indebtedness which was incurred to acquire, construct or substantially improve the borrower's principal residence; and

(3) The principal amount of the loan does not exceed 100 percent of the median purchase price of an existing single family home located in New Hampshire, as determined by the authority based on statistics periodically published by the federal government.

204-C:82 Guarantee Fund Established. In order to provide additional security to the state for any guarantee made under RSA 204-C:81, there is hereby established a guarantee fund which shall be held by the authority apart from all of its other funds, and which shall be deemed irrevocably pledged to secure all loans guaranteed under RSA 204-C:81. The authority shall be under no obligation to use its own funds for this purpose, and is hereby authorized to deposit moneys appropriated by the general court to support the housing security programs in such fund. If a state guarantee is called upon to be honored the authority shall draw upon such fund for the purpose of honoring such guarantee, and only when amounts in the fund are exhausted shall the state treasurer be required to advance proceeds pursuant to RSA 204-C:81, II, to perform the guarantee obligations. Interest earned on amounts invested in the fund shall be accumulated therein and credited thereto or paid to the authority upon its discretion. If at any time the amount in the fund exceeds 10 percent of the guaranteed portion of the principal of all loans guaran-

teed under RSA 204-C:81, or such higher amount as may be determined by the authority, the authority may withdraw the excess. The authority may enter into trust agreements, depository agreements, or other arrangements with one or more state banks in order to carry out the purposes of this section. The authority may accept gifts, grants, donations, pledges or other moneys from sources other than the state. Said moneys shall be deposited into the guarantee fund.

204-C:83 Programs for Public Purpose; Required Findings. The authority shall not take any action described in RSA 204-C:81 unless it makes the following findings, provided that the authority's board of directors may delegate this responsibility to the authority's executive director:

I. The proposed action will serve a public use and provide a public benefit.

II. The proposed action is within the policy of, and the authority conferred by, this subdivision.

III. In the case of a guarantee to be awarded under RSA 204-C:81, the proposed award of a guarantee will contribute significantly to the ability of a resident of this state to refinance successfully a principal residence loan.

IV. In the case of a loan to be made under RSA 204-C:82, the proposed loan will contribute significantly to the ability of a resident of this state to maintain current housing.

V. Reasonable and appropriate measures have been taken by the borrower to secure funds or assistance other than the guarantee or loan to be provided under RSA 204-C:81 and 204-C:82 and such measures have been unsuccessful.

VI. Reasonable and appropriate measures have been taken to minimize risk of loss to the state and to ensure that any private benefit from the proposed action will be only incidental to the public purpose served thereby.

204-C:84 Rulemaking. Notwithstanding RSA 204-C:53, the authority shall adopt rules under RSA 541-A to implement the provisions of this subdivision. These rules shall include, but not be limited to:

I. Eligibility standards for loan guarantees issued under RSA 204-C:81. Such standards shall include maximum income and asset limits for eligible participants.

II. Eligibility standards for housing assistance loans made under RSA 204-C:82. These standards shall include maximum income and asset limits for eligible borrowers.

III. The conditions and terms of loan guarantees issued and loan made under this subdivision.

IV. Such other matters necessary to implement the provisions of this subdivision.

40 Exemption. The legislature declares that there is an urgent need for the programs created by section 39 of this act. Therefore, notwithstanding any provisions of RSA 541-A to the contrary, the authority may adopt rules to implement the provisions of section 39 of this act pursuant to RSA 204-C:53. The rules authorized by this section shall remain effective until such time as the authority adopts superseding rules under RSA 541-A. The authority shall commence rulemaking under RSA 541-A implementing the provisions of section 39 of this act no later than December 31, 1993.

41 Contingency. No moneys in the guarantee fund established under RSA 204-C:82 as inserted by section 39 of this act shall be expended or encumbered until the housing authority has raised \$500,000 from sources other than the state.

42 Land Conservation Investment Program; Rulemaking Authorized. Amend RSA 221-A:5, I to read as follows:

I. Adopt rules under RSA 541-A relative to criteria and guidelines for identifying and acquiring lands, easements, development rights, and other interests in lands in accordance with the purposes of this chapter. These criteria and guidelines shall include those listed in RSA 221-A:9. **Further, to adopt rules under RSA 541-a relative to the establishment and operation of a perpetual monitoring endowment, the purpose of which is to provide a permanent source of revenue to protect the interests of the state secured by the expenditure of all funds authorized by RSA 221-A.**

43 Land Conservation Investment Program; Powers and Duties Added. Amend RSA 221-A:5, III to read as follows:

III. Oversee, direct, and expend funds deposited in the trust fund of the New Hampshire land conservation investment program in accordance with the purposes of this chapter. This includes, but is not limited to, the authority to draw upon funds for acquisition of lands and for the administrative costs of the program, excluding the salary and benefits of the executive director. **Further, funds from interest earned on the land conservation investment program trust fund may be allocated by the board to the establishment of a perpetual endowment to provide interest earnings annually for the purpose of providing a source of revenue to annually monitor the lands and interests in lands protected by RSA 221-A.** The board shall report its administrative expenditures to the joint legislative fiscal committee semi-annually. All expenditures for the acquisition of lands, easements, and development rights under this chapter shall be subject to the approval of the governor and council. **The endowment principal shall be held and managed by the state treasurer, and the expenditure of all interest earnings from the endowment fund shall be overseen and directed by the board un-**

til June 30, 1993. After June 30, 1993, the council on resources and development shall oversee, direct and expend interest funds earned annually by the endowment.

44 New Section; Monitoring Endowment. Amend RSA 221-A by inserting after section 5 the following new section:

221-A:5-a Monitoring Endowment.

I. Any monitoring endowment established by the board pursuant to RSA 221-A:5, III shall, be maintained in perpetuity and shall be utilized only for the purposes of monitoring and enforcing the property rights protected by RSA 221-A.

II. The principal of the endowment shall be managed by the state treasurer for the sole purpose of providing interest earnings for the purposes set forth in this chapter, and expenditures from the endowment for those purposes shall be limited to the interest earned thereon.

III. Any interest earned on the endowment principal which is not used for the purposes set forth in this chapter within the fiscal year in which it is earned shall be added to the principal amount. The state treasurer is authorized to accept gifts, donations, and grants, including federal gifts, donations, and grants for the purposes set forth in this chapter, and such gifts, donations and grants shall be added to the principal amount.

IV. Notwithstanding RSA 541-A:2, IV, any rule adopted pursuant to RSA 221-A:5, I concerning the establishment and operation of a perpetual monitoring easement shall remain effective unless and until amended pursuant to RSA 541-A by the board or, pursuant to 1987 340:4, the council on resources and development.

V. The board shall, upon establishment of a monitoring endowment pursuant to RSA 221-A:5, III, prepare an annual report to be presented no later than December 1 of each year to the speaker of the house, the president of the senate, and the governor and council. The report shall include a listing of all lands and interests in lands subject to the monitoring provisions of RSA 221-A and a complete financial accounting of the funds in the monitoring endowment including expenditures for the most recent full fiscal year. The report shall also summarize monitoring activities and findings for each property, as conducted in the most recent full fiscal year.

45 New Sections; Equipment Inventory Fund. Amend RSA 228 by inserting after section 24-a the following new sections:

228:24-b Equipment Inventory Fund.

I. There is hereby established an equipment inventory fund which is hereby authorized as a revolving fund.

II. The commissioner of transportation through the division of property and plant management, shall purchase such equipment as is necessary for the operation of department's motor vehicle fleet and construction equipment fleet.

III. The commissioner may rent or lease vehicles and equipment from the equipment inventory to all departments and institutions of the state, political subdivisions of the state and agencies of the federal government. He shall assess a fair and equitable charge with respect to the rental or lease of vehicles and equipment sufficient to defray all administrative, transportation, storage, maintenance, amortization, replacement and other costs incurred by the department in administering this account sufficient to continue the equipment inventory fund as a revolving fund. The revenue from the rent, lease, or sale of vehicles or equipment purchased, rented or leased with funds from the equipment inventory fund shall be deposited into the equipment inventory fund. The commissioner of transportation shall expend such funds for the operation of the mechanical services bureau, operation division of the department of transportation and to purchase replacement or new motor vehicles and construction equipment, provided that the general court appropriates such funds from the equipment inventory fund to the mechanical services bureau.

228:24-c Replacement or Acquisition of Vehicles and Construction Equipment. The commissioner of transportation is directed to prepare an equipment acquisition plan each biennium and present such plan with his budget requirements submitted in accordance with RSA 9:4 to the legislative capital budget overview committee.

46 Department of Transportation; Transfer of Vehicles and Equipment. All vehicles and construction equipment owned or acquired after the effective date of this act by the department of transportation shall be transferred to the equipment inventory fund established in RSA 228:24-b.

47 Appropriation. The sum of \$4,000,000 is hereby appropriated to the equipment inventory fund established in RSA 228:24-b, for the purpose of purchasing motor vehicles and construction equipment. This appropriation shall be nonlapsing and in addition to any other funds appropriated to the department of transportation for the biennium ending June 30, 1993.

48 Bonds. To provide funds for the appropriation in section 47 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$4,000,000 and for said purpose may issue bonds and notes in the name and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A. The bonds shall be 5-year bonds.

49 Payment. The payment of principal and interest of the bonds and notes issued for the purchase of vehicles and equipment authorized in section 47 of this act shall be a charge against the equipment inventory fund.

50 Appropriation. There is hereby appropriated from the equipment inventory fund established by RSA 228:24-b the sum of \$4,000,000 for the biennium ending June 30, 1993, to the department of transportation, operations division, mechanical services bureau for the purpose of purchasing new and replacement motor vehicle and construction equipment.

51 Compensation Appeals Board; Members Increased. Amend RSA 281-A:42-a, I to read as follows:

I. There is established a compensation appeals board. The board shall consist of a pool of [15] **21** members at least [5] **11** of whom shall be attorneys. Members of the board shall be appointed by the governor and council from a list of nominees submitted by the commissioner. The commissioner shall submit at least 2 nominees for each vacancy to be filled. Terms of board members shall be 4 years, except the initial appointments shall be staggered so that no more than 1/3 of the members' terms shall expire in the same year. Members of the board shall have at least 5 years' experience in the area of workers' compensation. Appeals from a decision of the commissioner or the commissioner's representative shall be heard de novo by a 3-member panel at least one of whom shall be an attorney and who shall serve as chair. At least 2 like votes shall be necessary for a decision by the panel. The board shall hear appeals, in accordance with RSA 281-A:43, I(b), from the decisions of the commissioner made pursuant to RSA 281-A:43. No person who is an interested party or an employee of an interested party shall participate as a member of the panel. The board shall conduct its proceedings in such a manner as to ensure a fair and impartial hearing.

52 Increase in the Amount of Taxable Wages. Amend RSA 282-A:69, I to read as follows:

I. Contributions shall accrue and become payable by each employer for each calendar year, in which he is subject to this chapter, in an amount equal to 2.7 percent, except as otherwise provided in RSA 282-A:79-90, of the wages paid **or payable** for employment during such calendar year, not to exceed [\$7,000] **\$8,000** which have been paid to an individual in any calendar year. Such contributions shall become due and be paid by each employer to the commissioner of the department of employment security for the fund in accordance with such rules as the commissioner of the department of employment security may adopt and shall not be deducted, in whole or in part, from the wages of individuals in such employer's employ; provided that the contributions of an employer becoming subject to the law

within any calendar year shall be first due and payable after such employer has satisfied the conditions with respect to becoming an employer. For the purposes of this section, the term "wages" shall include service subject to contribution under any employment security law of another state.

53 Adjustments to the Contribution Rate and the Unemployment Compensation Fund. Amend RSA 282-A:82, I-III to read as follows:

I. There shall be subtracted in any calendar quarter from every employer's contribution rate [.2] .5 percent whenever the unemployment compensation fund equals or exceeds [\$100,000,000] **\$200,000,000** throughout the next preceding calendar quarter.

II. There shall be subtracted in any calendar quarter from every employer's contribution rate [.2] .5 percent whenever the unemployment compensation fund equals or exceeds [\$115,000,000] **\$225,000,000** throughout the next preceding calendar quarter.

III. There shall be subtracted in any calendar quarter from every employer's contribution rate [.3] .5 percent whenever the unemployment compensation fund equals or exceeds [\$130,000,000] **\$250,000,000** throughout the next preceding calendar quarter.

54 Skyhaven Commission; Staggered Terms Added. RSA 422:47, II is repealed and reenacted to read as follows:

II.(a) Members of the commission appointed under subparagraphs (a), (b) and (c) shall serve for terms of 1 year.

(b) One of the members of the commission appointed under subparagraph (d) and the member appointed under subparagraph (e) shall serve for terms of 2 years.

(c) The other member appointed under subparagraph (d) and the member appointed under subparagraph (f) shall serve for terms of 3 years.

(d) Each member shall serve until a successor is appointed and qualified. A vacancy shall be filled in the same manner, but only for the unexpired term.

55 Skyhaven Commission; Duties Modified. Amend RSA 422:48, I to read as follows:

I. Be responsible for the oversight of all operations of Skyhaven airport, **including lease and use of all airport property.**

56 New Subparagraph; Agricultural Product and Scale Testing Fund. Amend RSA 6:12, I by inserting after subparagraph (uu) the following new subparagraph:

(vv) One-half the registration fees collected under RSA 435:20, which shall be credited to the agricultural product and scale testing fund, established under RSA 435:20, IV.

57 Increasing Fees. Amend RSA 435:20, II and III to read as follows:

II. No person shall distribute in this state a commercial feed,

except a customer-formula feed, which has not been registered pursuant to the provisions of this section. Applications for registration, accompanied by a [\$25] \$50 per-brand registration fee, shall be submitted in a manner prescribed by the commissioner. Upon approval by the commissioner, a registration shall be issued to the applicant. All registrations shall expire on December 31 of each year.

III. The commissioner may refuse to register any commercial feed not in compliance with the provisions of this subdivision and to cancel any registration subsequently found not to be in compliance with any provision of this subdivision; provided that upon the refusal of registration, the [\$25] \$50 registration fee shall be returned to the applicant; and provided further that no registration shall be refused or cancelled unless the applicant or registrant has been given an opportunity to appear at a hearing before the commissioner and to amend his application in order to comply with the requirements of this subdivision.

58 Supplemental Appropriation; Department of Agriculture; Bureau of Markets. Amend 1991, 312:1, PAU 02, 03, 03 of fiscal year 1993 as follows:

Insert

FY 93

91 Agricultural product and scale

testing

77,500

03 Revolving Funds

77,500

59 New Paragraph; Agricultural Product and Scale Testing Fund. Amend RSA 435:20 by inserting after paragraph III the following new paragraph:

IV. One-half of the fees collected under this section shall be deposited with the state treasurer into a separate, nonlapsing account to be known as the agricultural product and scale testing fund. The remainder of the fees collected under this section shall be deposited in the general fund.

60 Location of Abandoned Intangible Property; Reference Modified. Amend RSA 471-C:3-a, I(b) to read as follows:

(b) The person or entity originating or issuing the intangible property is the state or any political subdivision of this state, or is incorporated, organized [or], created **or otherwise located** in this state.

61 Abandoned Intangible Property; Reference Modified. Amend RSA 471-C:3-a, III to read as follows:

III. Paragraph I shall apply to all property held on the effective date of this section, or at any time after such date, regardless of when such property [shall be deemed] **became or becomes** presumptively abandoned.

62 Time Limit Removed. Amend RSA 485:3, V to read as follows:

V. The division may adopt rules specifying the criteria under which filtration, including coagulation and sedimentation, as appropriate, is required as a treatment technique for public water systems supplied by surface water sources. In developing such rules the division shall consider the quality of source waters, protection afforded by watershed management, treatment practices such as disinfection and length of water storage and other factors relevant to protection of health. The division may require any public water supply system to assist in determining the necessity of filtration in that system. The division shall provide an opportunity for notice and public hearing prior to implementation of any filtration requirement. Following such hearing, the division shall prescribe, by rule adopted pursuant to RSA 541-A, a compliance schedule for such filtration requirement. [A public water supply system shall comply with a filtration schedule prescribed by the division not later than 18 months after the division has made a determination of necessity under this paragraph.]

63 District Court Judges; Salaries; Change of Status. Amend RSA 491-A:3, IV to read as follows:

IV. The supreme court, after reviewing population, caseload, judicial time and efficiency, available judicial resources and other relevant criteria, may determine that said justice shall become full-time, provided that funds [have been specifically appropriated] **are available** for the salary and benefits for a full-time district court justice.

64 Probate Judges; Salaries; Change of Status. Amend RSA 491-A:4, IV to read as follows:

IV. The supreme court, after reviewing population, caseload, judicial time and efficiency, available judicial resources and other relevant criteria, may determine that any part-time probate judge become full-time, provided that funds [have been specifically appropriated] **are available** for the salary and benefits for a full-time probate judge.

65 Judicial Vacancies. Amend section 89 of HB 1494-FN-LOCAL by replacing it with the following:

89 Judicial Vacancies. Whenever a judicial vacancy occurs in the district court, the vacated position shall be abolished. The position may be reestablished by the fiscal committee, upon certification by the supreme court that the caseload of the affected court location and the lack of availability of judges already appointed to assist in the handling of that caseload results in an administrative necessity for the position.

66 Contingency. If HB 1494-FN-LOCAL, "An Act implementing the recommendations of the New Hampshire supreme court long-range planning task force regarding the judicial branch" becomes

law, sections 63-65 of this act shall take effect January 1, 1993, at 12:01 a.m. If HB 1494-FN-LOCAL does not become law, sections 63-65 of this act shall not take effect.

67 Effective Date Changed; Literacy Instruction. Amend 1988, 274:10, I-a, as inserted by 1989, 301:6 and as amended by 1991, 355:101 to read as follows:

I-a. RSA 189:54, II as inserted by section 3 of this act shall take effect July 1, [1992] 1993.

68 Coos County Superior Court Appropriation; Purpose Modified. Amend 1991, 351:1, II, E to read as follows:

E. Coos county superior court-**land
acquisition, design and construction
documents, handicapped access
renovations and code requirements**

600,000

69 Purpose; Coos County Superior Court House; Land Acquisition. The sum in 1991, 351:1, II, E, as amended by section 68 of this act, is appropriated to the department of administrative services for the land acquisition, design and construction documents, handicap access and safety code renovations to the existing courthouse and for planning to make such existing courthouse capable of being used as a district courthouse, provided that handicapped access and safety code renovations shall have the highest priority and shall be completed before any other expenditures are made.

70 Appropriation to Department of Postsecondary Technical Education Increased and Bonded. Section 3 of HB 497 shall be replaced with the following:

3 Appropriation; Department of Postsecondary Technical Education.

I. The sum of \$100,000 is appropriated to the department of postsecondary technical education for the purposes of this act. This appropriation shall be nonlapsing.

II. To provide funds for the appropriation in paragraph I of this section the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$100,000 and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. The bonds shall be 10-year bonds. Payments of principal and interest of the bonds and notes shall be made from the general fund of the state.

71 Contingency. If HB 497-FN-A, "An Act relative to an equipment challenge grant program for vocational and technical education programs and making an appropriation therefor" becomes law, section 70 of this act shall take effect July 1, 1992. If HB 497-FN-A does not become law, section 70 of this act shall not take effect.

72 Legislative Oversight Committee on Student Assessment Program. There is hereby established a legislative oversight committee on the student assessment program established in the operating budget. The committee shall consist of the chair of the house education committee, 2 representatives appointed by the speaker of the house, one of whom shall be from the house appropriations committee, the chair of the senate education committee, and 2 senators appointed by the president of the senate, one of whom shall be from the senate finance committee. This committee shall be responsible for reviewing the curriculum frameworks and student assessment program. Implementation of the program shall require committee approval.

73 Study Committee Established; Duties.

I. There is established a committee to study sources of revenue that are deposited into the highway fund and the purposes for which such funds are disbursed from the highway fund. The committee shall have the following duties:

(a) To research statutes and financial reports of the state to determine the sources of all revenues accruing to the state highway fund from registration fees, operators' licenses, gasoline road tolls or any other special charges or taxes with respect to the operation of motor vehicles or the sale or consumption of motor vehicle fuels.

(b) To research statutes and financial reports of the state and its political subdivisions to identify purposes for which such revenues are appropriated and expended.

(c) To recommend legislation, if appropriate, to implement the committee's findings.

II. The committee shall consist of the following members, all of whom shall be appointed no more than 30 days after the effective date of this act:

(a) One member of the house appropriations committee, appointed by the speaker.

(b) One member of the house ways and means committee, appointed by the speaker.

(c) One member of the house public works committee, appointed by the speaker.

(d) One member of the senate finance committee, appointed by the president.

(e) One member of the senate ways and means committee, appointed by the president.

(f) One member of the senate transportation committee, appointed by the president.

(g) The commissioner of department of transportation, or designee, who shall be a nonvoting member.

(h) The commissioner of the department of safety, or designee, who shall be a nonvoting member.

III. The first meeting of the committee shall be called by the member appointed from the house appropriations committee. The members shall choose a chairman at the first meeting.

IV. The committee is authorized to request and receive from any agency receiving highway funds, on forms prepared and adopted by the committee, documentation and information relative to program measures using highway funds.

V. Members of the committee shall serve without compensation, except that legislative members shall receive mileage at the legislative rate when attending to the duties of the committee.

VI. The committee shall submit a report of its findings and recommendations, including proposed legislation, to the president of the senate and the speaker of the house no later than December 1, 1992.

74 Lapse Dates Extended. The following appropriations are hereby extended to June 30, 1993:

I. The appropriation made to the department of administrative services in 1991, 177:1, relative to the Nashua superior court furnishings and security systems.

II. The appropriation made to the department of administrative services in 1989, 367:1, II, A-B, as amended by 1991, 351:27, II(e), relative to Londergan hall renovations, and repair of the state house dome.

III. The appropriation made to the university system of New Hampshire in 1989, 367:2, D and E, for Mason Library renovations in Keene, design of a biological sciences center, and Dimond Library design and shelving in Durham.

IV. The appropriation made to the department of transportation in 1988, 152:1 as amended by 1991, 351:27, II(i) for the additional hangar facilities at Skyhaven airport.

V. The appropriations made to the aeronautics commission in 1981, 565:1, II as amended by 1983, 423:17, 1986, 211:18, 1989, 367:27, II(j) and 1991, 351:27, II(j) for the Skyhaven airport and the Skyhaven audit fund.

VI. The appropriation made to the aeronautics commission in 1979, 435:1, III, E as amended by 1983, 423:16, 1986, 211:14 and 1991, 351:27, II(k) for the Skyhaven airport.

VII. The appropriations made to the department of transportation in 1989, 367:1, XII, A, 1, 3 and 4 as amended by 1991, 351:27, II(l) for aeronautics projects.

VIII. The appropriation made to the department of resources and economic development in 1988, 224:1, IV, D as amended by 1991, 351:27, II(f), relative to Hampton harbor dredging.

75 Lapse Date Extension; Appropriation for Concord District Court. The appropriation made to the supreme court in 1989, 367:1, XI, A as extended by 1991, 351:27, II(a) for construction of the Concord district court is hereby extended to June 30, 1993. The supreme court may expend the remaining funds appropriated as necessary to complete planned furnishing of the Concord district court.

76 Debt Management; RSA Chapter Suspended. The operation of RSA 6-C is hereby suspended until July 1, 1995.

77 Repeal. The following are repealed:

I. RSA 282-A:82, IV and V relative to certain contribution rates.

II. RSA 282-A:87, III relative to the adverse rating cost.

III. RSA 235:23-a, III(a), relative to highway and bridge betterment program priorities.

78 Effective Date.

I. Section 9 of this act shall take effect July 1, 1994 at 12:01 a.m.

II. Section 52 of this act shall take effect January 1, 1994.

III. Sections 15-17, 21-23, 47-50, 53, and paragraphs I and II of section 77 shall take effect July 1, 1992.

IV. Sections 24 and 25 shall take effect as provided in section 26 of this act.

V. Sections 63-65 shall take effect as provided in section 66 of this act.

VI. Section 70 shall take effect as provided in section 71 of this act.

VII. The remainder of this act shall take effect upon its passage.

*Conferees on the Part
of the Senate*

Sen. Dupont, Dist. 6

Sen. Hough, Dist. 5

Sen. Blaisdell, Dist. 10

*Conferees on the Part
of the House*

Rep. C. Brown, Graf. 13

Rep. LaMott, Graf. 5

Rep. B. Marsh, Coos 1

Rep. Vaughn, Rock. 27

Rep. Schotanus, Sull. 1

AMENDED ANALYSIS

This bill:

(1) Authorizes the state treasurer to borrow without being required to repay the indebtedness within one year.

(2) Redefines the definition of "budget" within the revenue stabilization reserve account to mean the operating budget in effect for the appropriate fiscal biennium.

(3) Requires that any reclassification of a position to a different class series be approved by governor and council.

(4) Requires that certain fees collected by towns be forwarded directly to the appropriate state agency. Current law requires that such moneys be forwarded to the state treasurer.

(5) Authorizes the port authority to set and collect fees for waiting lists.

(6) Lapses the national guard scholarship fund to the general fund.

(7) Makes a 2-phase bonded appropriation to the university system of New Hampshire for infrastructure improvements to existing facilities.

(8) Authorizes the department of transportation to renovate and/or replace an administration building at Skyhaven. Current law authorizes the department to renovate the buildings.

(9) Increases the appropriation to the department of transportation for the purpose of designing and constructing additional hangar facilities at Skyhaven Airport.

(10) Makes a capital appropriation to the department of transportation, division of aeronautics for the purpose of expanding the apron and creating a runway at the Lebanon Airport.

(11) Changes the appropriation to the department of transportation relative to consolidated federal aid and increases the appropriation to the department of transportation for betterments and state bridge aid.

(12) Makes a bonded appropriation to the department of resources and economic development for snowmaking at Mt. Sunapee on Cataract/Fox Run.

(13) Increases a bonded appropriation to the department of resources and economic development.

(14) This bill makes a bonded appropriation to the department of administrative services for the establishment of the Hanover-Lebanon district court.

(15) Requires the attorney general to submit a report every 6 months to the joint legislative fiscal committee detailing each expenditure approved under RSA 7:12.

(16) Adds persons who retired prior to July 1, 1988, and who had completed no less than 20 years of group II service, but had not attained the age of 45 to the New Hampshire retirement system for the purpose of receiving medical benefits.

(17) Transfers the health service room in the state house from the division of public health services to the legislative facilities committee.

(18) Allows the New Hampshire housing finance authority to allocate fees as matching funds for federal housing programs and also establishes a program, to be administered by the authority, to guarantee certain home mortgages for low and moderate income persons and families.

(19) Authorizes the board of directors of the land conservation investment program to adopt rules relative to the establishment and operation of a perpetual monitoring endowment.

(20) Establishes an equipment inventory fund and makes a bonded appropriation to the fund.

(21) Increases the membership of the compensation appeals board.

(22) Increases the employers' contribution cap from \$7,000 to \$8,000 effective January 1, 1994.

(23) Makes adjustments to the reduction in contribution rate associated with the level of funds in the unemployment compensation fund. The bill increases the level of moneys in the compensation fund necessary before any reduction in contribution rate is realized.

(24) Repeals provisions of law relating to reductions in the employer's contribution rate when the unemployment compensation fund exceeds a certain amount and the liability of certain employers for an adverse rating cost.

(25) Staggers the terms of the members of the Skyhaven commission and modifies the commission's duties.

(26) Establishes an agricultural product and scale testing fund into which half of the registration fees collected for commercial feed will be deposited and also increases the per-brand registration fee for commercial feed.

(27) Modifies the definition of abandoned intangible property.

(28) Makes technical changes in certain water laws.

(29) Changes the criteria for change of status for district court justices and probate court justices from part-time to full-time and for filling judicial vacancies, if HB 1494-FN-LOCAL of the 1992 session becomes law.

(30) Changes the effective date of a law relative to literacy instruction.

(31) Modifies the purpose of the appropriation for the Coos county superior court to include land acquisition, design and construction documents and handicap access renovations to the existing courthouse and for planning to make such courthouse capable of being used as a district courthouse.

(32) Makes a bonded appropriation to the department of postsecondary technical education for the purposes of directing and developing an equipment challenge grant program for vocational and technical education programs.

(33) Establishes a legislative oversight committee on the student assessment program established in the operating budget.

(34) Establishes a committee to study sources of revenue that are deposited into the highway fund and the purposes for which such funds are disbursed from the highway fund.

(35) Extends the lapse dates for certain appropriations.

(36) Suspends the operation of RSA 6-C, relative to debt management, until July 1, 1995.

(37) Repeals a certain priority of the highway and bridge betterment program.

SENATOR DUPONT: For the sake of time, rather than going through in detail explaining everything that is in the Committee of Conference report, I have asked that Dick, our Sergeant-At-Arms, pass out the summary that shows each section and the changes that the Committee of Conference made and I will address any specific questions that a member might have about what is in HB 1026.

SENATOR HUMPHREY: Mr. President, I suggest that we have a recess while members have a chance to go through this very extensive and expensive bill.

SENATOR DUPONT: Whatever they would like. The report has been drafted and I would be glad to explain what the differences are from when it was before the body before.

SENATOR DELAHUNTY (In the Chair): I think this is what I will do: we will stay in session and give you time to go through the report and as questions arise, if you will just address the chair, and we will then recognize you to ask Senator Dupont for an explanation.

SENATOR MCLANE: Perhaps a suggestion to the Chair. I have tried with my intern to go through 1026 and there is a good synopsis in the back pages of 1026. It occurs to me that the most helpful thing for everyone is for the Chairman, which I gather is Senator Dupont, to just simply go over the list with us. I don't see how sitting here on our own, which I tried to do all day yesterday, would help. I would request that Senator Dupont merely go over the list with us and see if we could do it that way?

SENATOR DUPONT: Sure, I would be glad to do that, Mr. President. If you look at the summary that I had passed out this morning that says LBAO (Legislative Budget Assistant's Office), you will see that in the first 14 items there was no change from the Senate position. Those are the positions that were adopted by the Senate because we were the last ones to work on this piece of legislation before it went to a Committee of Conference.

Section 15 is the first change that was made in the Committee of Conference. When this legislation originally passed the Senate, you will see that UNH received \$10,000,000 for renovation and repair of their existing buildings. The Committee of Conference reduced that amount to \$7,000,000 and made both the \$5,000,000 appropriation that will become available July 1, 1992 and the \$2,000,000 that is available January 1, 1993, subject to Capital Budget overview. They cannot expend it without an accounting to Capital Budget overview.

Section 18 we changed some language to allow some monies that were appropriated to Skyhaven Airport for the renovation for the existing administrative building to be used also for replacement, and I believe that this in fact was part of the Senate language that we originally adopted.

Section 19 was also part of the Senate language that we adopted originally, and the same with section 20.

Section 21, I believe, was not part of the original language that we appropriated, but it deals with leveraging \$1,273,000 of federal aviation money for an apron expansion and taxiway program at the Lebanon Airport, and the total appropriation is \$70,000.

Section 22 deals with the issuance of bonds to take care of that \$70,000 and section 23 deals with the same.

Section 24, when the Senate originally passed 1026 we appropriated \$7,000,000 to be bonded by the Highway Department to meet the ice tea or the new federal highway bill match that is required by the state of New Hampshire before we can realize those federal dollars. As a result of the Committee of Conference work that was done, we were able to accomplish that without bonding the \$7,000,000. We believe that after going through the existing work that the department is doing, what is happening with the highway fund, that in fact there is no necessity now to borrow that \$7,000,000, we can make the match.

Section 25 deals with local betterments. These are project monies that go not to build new roads, but to repair existing roads that are in the state. The changes that were made here were basically to speed up the utilization of these dollars. I believe that we took the bonding out, because originally there was \$5,000,000 that was going to be bonded to use for betterments. Again, looking to try and get these dollars out on the street as soon as possible, we were able to accomplish this without the borrowing out of existing revenues. We had a great deal of cooperation from the Department of Transportation and a lot of hard work by Senator Hough and Merle Schotanus, Rep. Schotanus, from the House and Rep. Lamott and the rest of the

members of the Conference Committee in trying to work these sections out in a way in which we would be able to maximize the federal dollars and not borrow any additional money and with the latest numbers that we had, we were capable of accomplishing that.

Section 26 deals with a contingency clause, and we will be dealing with HB 1025 shortly and basically, it says that if 1025 does not become law then 24 and 25 of this act takes effect upon its passage.

Section 27 deals with snowmaking at Sunapee. I believe, Senator Hough, that that was in the original 1026 that passed this body, so that is nothing new.

Section 28 is just a change in the amount of the bonds that are outstanding dealing with that section of the budget.

Section 29 also deals with the bonding authorization. That is boiler plate language.

Section 30, last year we passed a bonded appropriation of \$5,000,000 to be used for economic development activities. It was subject to the work of a special committee that was set up and made up of the executive branch and legislators. That \$5,000,000 has been allocated to projects such as the industrial research center at UNH and monies for import/export activities, the New Hampshire Business Development Corporation, the Small Business Development Corporation, and this additional appropriation which is \$750,000 is to go to fund a new program that has started as a result of our economic development activities, which is an industrial research center partnership with UNH and Dartmouth and also to provide some additional assistance in the areas that the department determines, as a result of a vote of the special committee that it determines that it ought to go. We have designed this program to be able to respond to the needs of the marketplace rather than appropriating a specific amount of money for the Dartmouth-UNH piece. We have put in there what we believe is the estimated amount for that, as well as an estimated amount for a couple of other programs that the department is looking at. That is a reduction of \$250,000 from the Senate position.

Section 31, I believe, is new.

SENATOR HOUGH: Excuse me, 31?

SENATOR DUPONT: Yes.

SENATOR HOUGH: There is no change there. That is the Senate position.

SENATOR DUPONT: Section 31 is the Senate position as it was originally adopted. The bonding language, as part of 30, is boiler plate. Section 32 is boiler plate.

Section 33 is new language that deals with the Department of Justice under RSA 7:12. The commissioner of the Department of Justice, or the Attorney General probably is the appropriate terminology, is authorized to come to the Fiscal committee and request monies that he needs to deal with litigation that is outstanding, criminal cases, civil cases. When he finds himself in a position where he needs to hire outside experts or outside legal counsel, the process has been that he has gone to the Fiscal committee and it has been pretty much left to his devices after that. This is a reporting requirement. It tracks with some money that is appropriated in 1025, the special counsel that has been hired to fight the Seabrook tax issue. So this is an accountability section for the Department of Justice.

Section 35 deals with, I believe, eight individuals who as result of some changes that took place in statute a few years back, fell through a crack in the system and it was brought to our attention as part of the Committee of Conference. It provides them with the same benefits that the rest of the group II members have, but as a result of a quirk in the law that we passed a few years ago, I believe that there were eight or nine individuals that fell through the crack and get treated differently.

Section 36 transfers the State House nurse, which has been an employee of the Department of Public Health, over to our employ. The Department of Public Health really has no contact with her other than having her as part of their budget, and it was felt that because the services she provides are to the State House and we are responsible for the State House and complex, that she ought to be recognized as part of our budget.

Section 37 is language that I believe tracks a piece of legislation that Senator Podles sponsored. I can't think of the specific language, but it tied in with an appropriation that we made in 1025, congregate housing. That's what that section deals with. As a result of a timing issue between the federal appropriation and our appropriation, this language was necessary.

Section 39 is a piece of legislation that we debated on this floor that has been changed to become basically a private sector or private activity on a mortgage - Senator King, you might want to pipe in on this one - loan guarantee program. The conference was submitted the amendment and I believe as a result of some changes that were made in it they felt that it was acceptable.

SENATOR PODLES: I would like to question this housing security program. Is this the same bill that was introduced in Public Affairs with Senator King?

SENATOR DUPONT: Senator King, I will defer to you.

SENATOR W. KING: Senator Podles, it is considerably different, and the most different part is that the appropriation has been taken out of the bill and the money will have to be raised privately for the contingency fund before it can be done.

SENATOR PODLES: So what you are telling me is that although you are passing that same bill, you have taken out the appropriations out of the bill?

SENATOR W. KING: That is correct. The contingency fund that was appropriated in the bill will have to be raised privately before they can begin the program.

SENATOR PODLES: Are there any other changes besides the appropriation that you took out?

SENATOR W. KING: The amount of the guarantee is significantly reduced.

SENATOR PODLES: From, to what?

SENATOR W. KING: To \$5,000,000.

SENATOR PODLES: Okay.

SENATOR DUPONT: I have . . . the next sections 42, 43, and 44 deal with the Land Conservation Investment Program. As some of you know, this program has reached its end; however, we didn't put in place any program that provides stewardship over the lands that have been acquired under this program. This is a statute change that allows them to take the interest earned on the land conservation program trust fund to establish a perpetual endowment. We have made, I think, a \$50,000,000 investment in this program, and it was the belief of the Conference Committee that that investment ought to be protected, and this is a way of doing it without appropriating any new monies.

Section 45 is SB 438 that established an equipment inventory fund in the Department of Transportation. I believe that when we originally adopted this it had a \$7,000,000 appropriation in it, a bonded appropriation. It has been reduced to \$4,000,000 by the Conference Committee.

Sections 47, 48, 49 and 50 all deal with the fund.

Section 51 deals with the compensation appeals board. We had a couple of Committee of Conferences that fell through the cracks and as a result of the deadlines that we were up against, there are two pieces in here that were not controversial, but had some timing issues that were involved and the conference included them, and this

is one of them. It increases the Compensation Appeals Board, which deals with workmen's compensation issues, by six members, and they were both noncontroversial in here and in the House.

Section 52, some of you may be aware that the unemployment compensation fund, as a result of what is going on in our economy, has taken a significant hit. The department brought in a piece of legislation, HB 1408 which again, was not controversial, and it went into a Committee of Conference and the conference didn't get resolved, so we have included that legislation in this. I can tell you that while at first blush it looks like it will increase the amount of taxable wages that are taxed under the unemployment compensation fund, which it does do, that piece will help preserve the integrity of the fund because of the large outflow of monies and prevent us from having to borrow from the federal government and having to pay them back. There is also a piece in here that deals with lowering the cost to many small businesses in our state who have had layoffs, but as the result of the existing language have seen significant changes in the rate at which they are taxed, and working this language out with the department, this piece is very, very important for a number of small businesses in our state.

Section 54 deals with the Skyhaven Commission which we established last session. We appointed some members. We had some appointments that were one year, and after those appointments were made, the mayoral elections took place and the mayors complained that they were recently elected and the terms of office were such for these individuals that because they represent the municipalities that the new mayors ought to be able to appoint the members. So this merely changes that.

Section 55 includes their oversight to lease and use airport property as a result of a question that was raised by the work that they are doing.

Section 56 was a part of another piece of legislation that again, Senator Disnard is familiar with this piece, the scale testing fund. That was adopted by the Senate.

Section 58 deals with the scale fund again.

Section 59 deals with the fund.

Section 60 is a section that was requested by the state treasurer to clarify language on abandoned property that is out of state, because I guess we have run into that.

Section 62 is a piece that was in HB 1314 which dealt with the water resource council and died because no agreement was reached in the Committee of Conference. This suspends filtration standards

for our local communities which are required at a significant cost to our local communities, a federal mandate that the state has been required to enforce. There have been town meetings where local communities have rejected bonding these improvements even though they are required by federal law, and this gives them additional time to try and deal with it.

Section 63 deals with change of status and I believe, and I am not real familiar with this section, I did not work on this section, but it deals with the determination of whether a court ought to be full time or part time, being linked to whether or not the monies are available for that change of status. There was some discussion that the fact that the executive branch will appoint judges when there may not in fact be monies available to pay them. So we are basically saying that there will be available resources before the appointments are made.

Section 66 is the contingency that the court consolidation bill, which is HB 1494, if that does not take place, then this section does not go into place because it fits in with what is being done under court consolidation.

Section 67 changes some dates on literacy requirements. I am not sure if that was part of the original conference position that went in.

Section 68 deals with the Coos County Superior Court. It deals with the design and construction documents and handicap access renovations and code requirements. It is just a change of purpose.

Section 70 deals with HB 497 which was the equipment challenge fund. When that bill went out of the Senate it had \$.5 million in it. This appropriates \$100,000, so the appropriation has been reduced by \$400,000. And again, it says that if HB 497 does not go into law, section 70 of this act does not take place.

Section 72 is a legislative oversight committee on student assessments. That basically deals with legislative oversight on curriculum framework and student assessment programs.

Section 73 deals with taking a look at our highway fund. This is an issue that is not new to many of the members of this body, where we have got highway funds that are being raised and some of them are being diverted away from highway projects, and this committee would make a determination about what we are going to do about that because, it is clear that while we have sufficient resources to continue to build new roads, we are falling locally behind on the maintenance of some of our roads.

Section 74 is an extension of lapse dates, where we have appropriated monies to certain projects and the projects are not completed at this time. This is action that we take all of the time when we run

into these time switches that go on between one fiscal year to another. In the case of a number of these projects, some of them are completed and they are waiting to see whether they are going to need additional expenditures to finish perhaps a part of the project. Some of them are out to bid right now as a result of delays in getting engineering documents done. Those sections primarily deal with the extensions of those lapse dates.

Section 76 is a piece that was originally in HB 1026. We passed it earlier this session. It deals with a piece of legislation we passed a couple of years ago that says that the general obligation bonds of the state of New Hampshire will not exceed 10 percent in total value of the previous year's general revenues so that we will not issue more than \$70,000,000 of general obligation bonds. We will not this year exceed that number. In fact we will be considerably below that number. I think that the last time that I looked, it was less than \$40,000,000. It is probably close to \$35,000,000. The state treasurer has, as a result of bond counsel raising some issues about previous years, not necessarily this year, has made the recommendation that this be suspended until July 1, 1995, which everyone hopes will be the end of or at least the start of some good financial health of the state of New Hampshire again. It also deals with the uncertainty that is going to exit on our revenue for next year. She just feels that bond counsel has raised the issue and the most appropriate action is for us to suspend it at this time.

Section 77 deals with - Senator Hough, you are going to have to help me with this one because I can't . . . I believe that deals with the highway betterment program. This would prevent monies that were appropriated for highway betterment, which is the road projects that do not build new highways, but fill the potholes and pave, from being taken out of that betterment fund and used to match federal dollars for new construction. Part of these monies go to the local communities for betterment and this locks the highway department into not diverting those monies to be used for our 20 percent match. The rest of it deals with the timing in which the various sections of this act take effect.

SENATOR HEATH: My first question is in reference to that last statement on section 77. I am looking to the right of that on your sheet of Committee of Conference action and it says replace by section 53 which refers to unemployment compensation?

SENATOR DUPONT: Yes.

SENATOR HEATH: Your explanation didn't seem to deal with that.

SENATOR DUPONT: No. What I was referring to was section 3. Senator, sections 1 and 2 deal with the piece that we dealt with on

unemployment compensation where I mentioned that it was an attempt to lower the cost of the employers of our state.

SENATOR HEATH: My next question would go to section 76. You're suspending RSA 6-C, and that you said was a recommendation of bond counsel through the Treasurer of the State of New Hampshire. My question on that is, is this a retroactive suspension? You said they had questioned some past years, not this year, but the past years, and it seems to me, that that doesn't do any good unless it retroactively excuses an action that took place in past years?

SENATOR DUPONT: Senator, it would only impact bonds that are being traded, if it's retroactive. There has been legal questions raised by bond counsel about this section of law and how it impacts the bonds that we are selling. As you know with bond counsel, they are very cautious, and their recommendation was that we suspend it. Once bonds are sold then whatever law was in place at that time, would impact those bonds. But in fact as you know, bonds do get traded; they get renewed, resold, and legal issues about those bonds can impact the return on those bonds.

SENATOR HEATH: They are cautious. They take money for asking us to make their life perfect by purifying anything that they . . .

SENATOR DUPONT: Senator, I wouldn't disagree with you on that.

SENATOR HEATH: Going down through the list, on item 23, the explanation of the Committee of Conference action is \$70,000 plus change, almost \$80,000 or \$71,000 excuse me, and the federal share is \$1,273,000. Can you give me an explanation of how that works? Is this a matching grant?

SENATOR DUPONT: Senator, each one of the airports in our state that are eligible for federal aid have a master plan and the funding for the federal government is based on the master plan that has been determined to be in the best interest of the operation of that facility. So each year when we pass either a Capital Budget or a Supplemental Budget, there are federal dollars that are made available for airport projects, and the Department goes through, Aeronautics goes through, and makes a determination as to the allocation of those federal dollars and where they ought to go. And this is their recommendation.

SENATOR HEATH: And that's a matching . . . ?

SENATOR DUPONT: That is matching. We put \$70,000 in and the federal government gives us \$1,200,000 for that project.

SENATOR HEATH: Now is that true in this other \$70,000 on item 22, bonds authorized?

SENATOR DUPONT: Yes.

SENATOR HEATH: Is that also generating another \$1,000,000 or is that the same?

SENATOR DUPONT: That is the same \$70,000.

SENATOR HEATH: And the same federal share?

SENATOR DUPONT: That is correct.

SENATOR HEATH: Is there in the Skyhaven appropriations, that kind of leverage in federal money?

SENATOR DUPONT: On this particular project, there is not. The monies that pay the bonds back on Skyhaven for hanger construction come out of revenue that's generated from the hangers, and it's a local project.

SENATOR HEATH: Is that because the state owns it, and does that disallow it from the federal grant program?

SENATOR DUPONT: No, it does not, but the federal highway money is primarily used for runway and taxiway and apron projects, with the exception of Manchester, which I believe, has received funding for other projects. But the hanger fund pays the cost of constructing the hangers, and that is the reason why it is not eligible for federal dollars. But Skyhaven has received considerable federal dollars. Special account - this does not take general fund dollars. It comes out of the special account - there were seven or eight or nine, I can't tell you, it's less than 10 individuals who had retired . . .

SENATOR HEATH: From what jobs?

SENATOR DUPONT: From either police chief, fire chief, I don't know what jobs they were in. The retirement system came over with this amendment because we've got this small group of individuals who as a result of their retirement date, were not eligible for the same benefits that the rest of the retirees have under Group II. It was a timing issue.

SENATOR HEATH: And these are not employees of the state of New Hampshire?

SENATOR DUPONT: No. They could have been. I can't tell you, Senator. If they were in Group II, they could be local fire, local police, they could be county police, sheriff, or anybody else that's in the Group II system. I can't tell you who . . .

SENATOR HEATH: Are they by position - I don't want to know the names because I don't want to embarrass anybody - but are they by position someplace named in the legislation?

SENATOR DUPONT: No, they are not.

SENATOR HEATH: How would a person find out - not their names - but what circumstances they came from and what the job was?

SENATOR DUPONT: Senator, it would not make a difference, and let me tell you why. We have maybe 6,000 Group II individuals out there who have a benefit that they are eligible for, and it was a result of an error in drafting that you have less than 10 who don't receive that same benefit. So it's an issue that has been brought to our attention, was not caught when the legislation was drafted, and I don't know who they are. All I can say is that the retirement system brought this to our attention and asked us to take care of it.

SENATOR HEATH: The reason I asked is that you've been around here about six months longer than I have on this side of the legislative body, and you certainly have seen times when this kind of legislation has covered for some special individual interests to get on a gravy train. That was my concern, and if it's truly somebody that fell through the cracks, I don't have a concern, but . . .

SENATOR DUPONT: And we would not have put it in if it wasn't for somebody that fell through the cracks.

SENATOR HEATH: Item 39. I guess I'm uncomfortable with that, and what I would like to know is simply where could I find full explanation of that? If I looked in the budget is that going to be in there, so I'll know how that program . . .?

SENATOR DUPONT: Senator, you would have to talk to Senator King for a full explanation.

SENATOR HEATH: In other words, it's not written anywhere?

SENATOR DUPONT: I believe other than as with the rest of the budget there is no written text that goes along with this. It is statute that is before you, not an explanation of how the program works. I hate to give you that for an answer, but I don't have any answer other than that.

SENATOR HEATH: I can read statute. The problem is sometimes statute is an idea and everything is turned over to rulemaking authority by an agency head, which essentially is 'let them write their own legislation'. That concerns me.

SENATOR DUPONT: And we share the same concern on that, Senator.

SENATOR HEATH: On Item 51, membership on the Compensation Appeals Board, and it says an increase by 6 members, can you tell me generically who the six members are, and who their appointing authority would be?

SENATOR DUPONT: Governor and Council would make those appointments. And I can't tell you who the six would be because they haven't made them yet, Senator.

SENATOR HEATH: Are they by any category business, labor?

SENATOR DUPONT: I believe they would be attorneys.

SENATOR HEATH: Six attorneys?

SENATOR DUPONT: Well, there was a makeup on the Board that statutorily requires attorneys to be part of the board, and Senator Hough has just indicated to me that they are attorneys.

SENATOR HEATH: I wonder if Senator Hough could give me a fuller explanation of that section?

SENATOR HOUGH: The problem as presented by the Commissioner of Labor is that the Workers' Compensation hearings - Senator Fraser knows more of the procedure. A list of attorneys that must be present on these Boards to hear an injured employee's case is submitted to the Governor. He would approve these designated attorneys, and they work on a per diem. The problem is that they schedule a hearing for an injured workman with an attorney and there is a delay because the attorney can't make it and it goes out 30 or 60 days in advance. This will allow them to have other approved attorneys to substitute so they can get these hearings heard in a timely fashion. The cost for the per diem and for the attorneys is borne by the industry. It's a charge back against the people that write Workers' Compensation. The addition of these six approved attorneys to hear Workers' Compensation in an appeal case will be to the advantage of the injured worker. And that's the intent.

SENATOR HEATH: So am I correct in assuming that it does not increase the numbers that will hear a case? It sets up . . .

SENATOR HOUGH: No, it does not. It provides a larger pool, if you will, who you can . . .

SENATOR HEATH: . . . alternatives. And where is the increase . . . they are only paid if they perform the function, right?

SENATOR HOUGH: That's correct.

SENATOR HEATH: So where is the increase in cost, since it will either be the original one or one from this list, but it wouldn't be both of them, where is the increase?

SENATOR HOUGH: There isn't an increase in cost.

SENATOR HEATH: Well, I thought you suggested that it would be borne by the insurance industry?

SENATOR HOUGH: Excuse me. The cost of the hearing process is a charge back against the industry, the people that write Workers' Compensation insurance.

SENATOR HEATH: But it always has been.

SENATOR HOUGH: All right. So there's no change in that. It just gives a larger number of approved attorneys that can be called upon to hear cases, so they can dispose of these injured workers' appeal cases in a more timely manner. If I have misstated, Senator Fraser will correct me.

SENATOR HEATH: So there is no increased cost then?

SENATOR HOUGH: No, not to anyone. If one attorney has a conflict, a substitute attorney will take the hearing and they'll only pay for one per diem.

SENATOR HEATH: Okay. The next question goes to item 63, District Judge Salaries, and the explanation says it allows appointment of part-time judges to full time under certain conditions. And I understand the Executive makes that appointment. Two questions: Does it allow the reverse, a change from full time to part time under certain conditions?

SENATOR DUPONT: Senator, I'm not sure about that. I suppose it could, but let me just explain to you that the Chief Executive of the State of New Hampshire does appoint judges, but in terms of the District Court and Probate Judges the Chief Justice has the ability to make someone full time, as a result of their workload. They make that determination.

SENATOR HEATH: Does this change that?

SENATOR DUPONT: No, it doesn't. All it says is that if you don't have the money to do it, you won't do it.

SENATOR HEATH: Okay. That goes to the second part of my question. Who makes the decision as to the availability of the resources in that case?

SENATOR DUPONT: Let me just say that . . . maybe I can tell you that under certain conditions what has caused the need for this is that there have been situations where money has been moved from where it was originally appropriated to go, and utilized for the purposes of something else.

SENATOR HEATH: Yes, I know that.

SENATOR DUPONT: And so the Fiscal committee is brought into this at some point and the logistics of it are such that there will be oversight.

SENATOR HEATH: It will be the Fiscal committee?

SENATOR DUPONT: Yes.

SENATOR HEATH: And one final question that goes more generally to this budget, but I would use Item 65 as the example that first brought it to mind as I looked over this. We have a provision about footnoting budgets and essentially the intent of that as it developed was the concern among the general body of legislators in the House and the Senate that policy was being driven, policy that in many cases had failed on the floor of the House and the Senate, is being driven by very few who were privileged to sit on the Committee of Conference on budgets. The failed policy was reinserted into the budgetary process and so we worked first with rules and then finally through a Constitutional Amendment on footnoting, and does some of this not begin to violate the actual provision and the spirit of that provision by inserting policy in the budget that is not simply a matter of appropriations in money bills?

SENATOR DUPONT: I'll give you a real quick answer. This is not a budget bill.

SENATOR HEATH: This is not? So this is . . . how would you classify this?

SENATOR DUPONT: HB 1025 is the budget bill and as has been done in the past, there is a trailer bill that goes along with the budget bills that have been taken care of, and I would just add by saying that I think both the House and the Senate were very sensitive in making sure that nothing went into this piece of legislation that had been rejected outright by both bodies. So there are some things in here that should have been dealt with on other pieces of legislation, such as the filtration system. There was agreement by both bodies on that, but because of some other issues that were present in the bill, it didn't get put into place, the same with the Workmen's Compensation piece.

SENATOR HEATH: Final question. But isn't this skirting the spirit of that provision by asserting that it isn't a budget bill when in fact it's indistinguishable in its purpose and the ability to change policy in a collective move where you buy the whole thing or you reject the whole thing is so reduced that policy goes through that has been rejected in this body?

SENATOR DUPONT: Senator, I'm not sure that's the case. I'll just respond by saying that because I believe that what we've done in this Committee of Conference is to come up with ways of accomplishing things that this Senate felt strongly about, and I think we've done a good job on it, because, in fact, it reduced the amount of

money that we appropriated. It reduced the amount of money that we agreed to bond as a body, by a lot of hard work. And while you may think it's a privilege to sit on a Committee of Conference on the budget, I can tell you from my own experience that it's 15 or 16 hours a day for the last two weeks, and it wasn't exactly what I consider a privilege.

SENATOR HEATH: Well, I never requested that privilege so I guess I am in agreement, but it certainly does give you some leverage on policy. Thank you.

SENATOR DUPONT: Thank you.

SENATOR DISNARD: Three, if I may. What's the total of new fees or taxes?

SENATOR DUPONT: I don't believe there are any new fees, other than the vital records fee, which I think was just a reallocation of where the money went on an existing fee.

SENATOR DISNARD: Thank you. I'd like to address Item 36. I have a problem with 36. I serve on the Legislative Facilities committee and as I look around at who was at the last Legislative Facilities committee meeting, I see everybody else who was on the Finance committee that was responsible for this, and I recall it was a unanimous decision because of fiscal problems and other items relating to the Senate staff, that this would not occur, and now I see it does occur, and I'm just wondering why if a unanimous decision of the Legislative Facilities committee why . . . Being a member of that committee if I hadn't read this last night, I wouldn't have seen it.

SENATOR DUPONT: Senator, let me just say that the Facilities committee had a problem with doing this in Facilities because it involved a change in salary, and the Senate position was adamant that if the transfer was going to take place, which I don't think we agreed . . . we didn't disagree with the idea of this person being an employee of those who she works for. What we disagreed with was the idea of bringing the person over and changing the salary as a result of that transfer.

SENATOR DISNARD: There is no salary change?

SENATOR DUPONT: There is no salary change.

SENATOR DISNARD: Do you agree with that, sir?

SENATOR BLAISDELL: Absolutely.

SENATOR DUPONT: Senator, let me just say that if there is any salary change that will take place for this employee it will have to go to the Facilities committee.

SENATOR DISNARD: I wouldn't have brought the question up, but a member of your committee told me there was a salary change.

SENATOR DUPONT: No. I was adamant about that, and the fact of the matter is that the salary stays the same, and it would have to go through Facilities like any other employee.

SENATOR DISNARD: If I hadn't been given that information, I wouldn't have asked. Item 35, your explanation is probably correct, but I called over to the retirement system today, because whenever I see something about retirement it hits me. And I'm of the opinion, and I'm probably misinformed, that this could involve more than the six people that the bill was originally intended for. I was told this morning that regardless of how many years of service - it could be 22 or it could be 23 - anyone less than age 45, the present law as interpreted by the retirement system, that none of those individuals are entitled to health benefits. None. So I'm wondering what the final cost might be to help these six people if the retirement system tells me they interpret the present law as saying anyone under age 45 with a number of years over 20 was not eligible. So what I'm wondering is, is there something here that perhaps could cost the retirement system large amounts of money in the future?

SENATOR DUPONT: Senator, they would have to have been retired from the system, and as our explanation, which came straight from the retirement system, and I don't know who you spoke to, but the amendment was drafted by Harry Descoteau and I gave you the explanation that was given to us.

SENATOR DISNARD: I don't doubt that, but I asked specifically this question: Anyone who retires before July 1, 1988, or June 30, before or now, presently, do they still not receive health benefits if they do not reach the age 45, and they said, "yes".

SENATOR DUPONT: Senator, if they retired today, they are eligible under the existing law. If they retired prior to that, and as I understand it there was only a small group of individuals who this impacted, they would be eligible.

SENATOR DISNARD: You are probably right.

SENATOR DUPONT: And if you would like us to get a clarification on that, I would gladly place the phone call.

SENATOR DISNARD: Well, I wouldn't put you on the spot, but somebody on the committee, because when I specifically asked the question, . . .

SENATOR DUPONT: Specifically, Group II.

SENATOR DISNARD: . . . on Group II, municipal eligible fireman, firefighters, and I wanted to make sure because I was going on the Senate floor and I didn't want to look like I didn't know what I was talking about, but evidently there is some concern that I do not know what I'm talking about. I didn't talk to Mr. Descoteau. But I asked if this could be a problem in the future? Is this a problem that could be a special exception to the retirement system? Could this cause problems down the road? And every one of my answers was "yes".

SENATOR DUPONT: Then I would suggest we get a clarification on it, because either you got the wrong information . . .

SENATOR DISNARD: I'm just concerned about untold costs that we might not be aware of.

SENATOR DUPONT: It comes out of the special account, and as you know, if there is no money in the special account, then the benefits are not given, and it's based on the census that they use. So if you would like us to call, we will get that clarified.

SENATOR DISNARD: Thank you very much. I appreciate it.

SENATOR HOLLINGWORTH: Could you give me the total number of dollars that will be going to the ice tea fund? We were told that there was a need of \$7,000,000, and I was wondering what the total number of dollars that will be going to that match for the federal dollars, and also how it came to that number?

SENATOR DUPONT: I believe the state match is \$16,000,000 or \$17,000,000.

SENATOR HOLLINGWORTH: \$7,000,000 this year?

SENATOR HOUGH: HB 1026 as you have it, amended, has \$4,000,000 that will drive the so-called maximum allocation and that will come due in March of 1993, a year from now. And the difference between the \$7,000,000 that would drive the maximum allocation and the \$4,000,000 that we have here would come next March, the receipt of it, after the new federal year in October of 1992. We've moved that in to put in place, if you will, the funds to drive the betterment program this summer, or starting virtually today, and that is an additional 300 road miles of soft asphalt paving for this construction season. The point is that the FY 1993 activity will be taken care of in July, August, September and the frost date in November, whenever that happens, and it's a total leveraging or front loading of construction activity this summer.

SENATOR HOLLINGWORTH: I don't think I made my question clear. May I continue? I'm looking for where we were supposed to have \$7,000,000, that we were supposed to match the federal govern-

ment for this year. There was bonding suggested prior. There was also a possibility of increasing the gasoline tax. I'm asking you what the total numbers of dollars are that we have now to match the ice tea that we were supposed to have for the federal match. And where is that money coming from?

SENATOR HOUGH: The \$7,000,000 is a recognition of the Ways and Means Committee's increase of the gasoline tax, the most recent change, and that has been documented and verified, so the revenue is there from present sources. And we're front loading three of them for this summer's construction season for the paving activity. Okay?

SENATOR HOLLINGWORTH: You say that the money is there. The Senate Ways and Means never met on that gasoline tax or any other taxes or any other changes in the revenue, and I'm wondering whose numbers you used. Is it the House's Ways and Means numbers that you used to come to those figures?

SENATOR HOUGH: The House Ways and Means Committee revised their estimates of revenue, and they were verified by the process and these were the \$7,000,000 that the Governor said was available, maximized the new federal highway plan, and quite frankly, at the time that the House was entertaining the Joint Committee, so-called, increase in the gas tax, that was questioned by me specifically and after that public hearing I . . . the last available set of estimates of revenue from the gasoline tax would indicate apparently that the Governor's position on that subject was correct and mine was wrong.

SENATOR HOLLINGWORTH: Is it usually the process that the Senate Ways and Means does not get a chance to review revenue changes? Because it wasn't only the gasoline taxes, but also several other taxes and revenue statements that were also changed by just the House Ways and Means Committee, that the conferees accepted? Is that the usual process?

SENATOR HOUGH: I can't speak for the Senate Ways and Means committee, and I don't know how you expect me to answer that question. The Ways and Means committee of the Senate did not revise their estimates of revenue.

SENATOR HOLLINGWORTH: Could it be that the Senate Ways and Means could not revise their numbers because we were never given the new numbers by the House, since it never passed the House and never came over to this body?

SENATOR HOUGH: Again, I don't know how you can answer that question. The Senate Ways and Means committee certainly should have a different set of revenue estimates, but bear in mind that both

the House and the Senate Ways and Means committees use the same staff, and the data and the estimates are not going to appreciably be different if you analyze what the staff gives to you. In fact, I would take this position, although it might be contrary to what the majority of this body or the other body may have. It was intriguing to me to find out that we dispatched the LBA to the Department of Transportation and as a result of a tremendous amount of work two week-ends ago, it became apparent that there were increases in receipts of the gas tax that came to light. That's the best I can tell you. Mr. Duclos spent all weekend on it and we don't want to engage the staff in debate, but we dispatched him again and it became apparent that the position of the administration that the \$7,000,000 would be available. It was then borne out. Up until that day we disputed this and said that we just don't buy into it because we're in deficit. Then there apparently were underestimates in certain accounts that brought that to light, and it was proven by the staff and adopted.

SENATOR OLESON: I think this question can be answered by anybody that was on this committee. I refer you to item 68, where it says "Coos County Superior Court Appropriations", change in language to expand purpose of original appropriation, or can somebody on the committee say I should refer it back to HB 1026 as amended?

SENATOR DUPONT: Senator, this came from Beaton Marsh, I believe, who has done the work on this, and basically it's not a new appropriation. It's a change in the existing appropriation, and the language that is highlighted is what the change is. And I'm not familiar with the specific project, but I relied on Representatives Marsh and Schotanus and Senator Hough to do the research on this piece.

SENATOR OLESON: Comment. Seeing that Representative Marsh is Chairman of the Coos County Delegation, no doubt he has taken care of that very well.

SENATOR PODLES: Senator Dupont, I'd like to backtrack to item 65, Judicial Vacancies. The wording of this section "Whenever a judicial vacancy occurs in the district court, the vacated position shall be abolished. The position may be reestablished by the Fiscal committee, upon certification by the Supreme Court . . ." This is a change in policy, obviously, and it does concern me here. The funding, the Fiscal committee does the funding?

SENATOR DUPONT: I'll just respond and then Senator Hollingworth, I'll defer to you, but let me just say that one of the biggest, fastest growing areas of expenditure in state government over the last ten years has been the court system. And as you know, having worked on the court consolidation bill, what we're trying to

do is bring those expenditures under control and also, hopefully, provide better service to all of those that we represent. The purpose of this, quite frankly, is to take a look at whether or not there are dollars available for that position once the vacancy occurs, because as we have found in the past, that has not always been the case, and with the sweeping changes made in HB 1494, it was felt that this language change is necessary, if we're going to provide any type of oversight over the changes that are going to take place in the court system. And with that, I'll defer to Senator Hollingworth.

SENATOR PODLES: Further question. Senator Dupont, I think it's the wording that concerns me.

SENATOR DUPONT: Well, Senator, there is language presently in our statute that deals with every other state employee that when a vacancy occurs that position is abolished. That was one of the things that has been done in the past and basically, again, it's a budget control issue. It's a reestablishment of the position through Fiscal. That's what this legislature has decided to use as part of the tool for managing limited state resources. And we've had this debate over whether the judicial branch should be exempt or whether the executive branch should be exempt or whether we, as a legislature, should be exempt, but I would only remind you that you know the amount of money that goes into our judicial system, and this is not going to have a significant impact on them, and in fact what we've seen in the past is that money that was appropriated for one solution that was developed within the judicial branch that has been used to resolve another problem. So I can only answer that way, and as I understand it, there is not a problem with the language. Senator Hollingworth may be able to . . .

SENATOR HOLLINGWORTH: I'd like to try to explain to Eleanor how this came about. Late into the process, I received a visit from Nina Gardner and Judge Kelly saying that the language that we had passed on HB 1494 was unconstitutional. That was the language that we had added in the committee that said that no judges would be appointed unless there was an appropriation and they had reviewed it. The Governor was very upset over that language that was in 1494, and felt that it was unconstitutional, and they asked if I would be willing, since I was one of the sponsors of the legislation, to make it constitutional. They presented me with the language in Section 1 and 2 and in Section 3, because I was assured that this omnibus bill, when I signed on to it, was going to save the state money and that we were going to reorganize government so it worked much faster and not cost us a lot of money. I was told that we would possibly not need as many judges and that certainly would be a great

saving to us in the district court system if that came to pass. So bearing that in mind, I talked to them about language that would abolish the position. Once the court certified that we needed to have that position, then Finance would reinstate it. And the only reason we do Finance is because we may be out of session. I had originally thought that the legislature would reinstate, but in the event we're not in session, somebody has to be there, should we need a judge because of a death or because somebody has retired. So the idea was so that there would not be a gap in the time that somebody needed to be appointed. The Fiscal committee would then establish . . . actually because the court has said it is needed, the Fiscal committee will then say "Yes, go ahead, Governor and appoint whoever you choose. You have the power to do so." And it's only because we were out of session, otherwise I would rather have the legislature be the ones to say that the position was needed. But it is a check and a balance because we are assured by the judges - and I sent the language to everyone. It was drafted here and Judge Kelly, Nina Gardner, Judge Maher and all the judges that she chose to send it to, which I think was quite a number, and the Bar Association all agreed that the language was appropriate, and it did clear up the unconstitutionality.

SENATOR NELSON: On page 35, Senator. I would like to ask you why did you not put whomever worked or made the major decisions on this when you have a study committee established to study sources of revenue that are deposited into the highway fund and the purposes for which such funds are disbursed from the highway fund. You did not put a member of the Capital Budget committee on there. You put Transportation, Public Works, Ways and Means and Finance, and I'm just curious as to why the body that deals with the budget, overseeing the highway fund, etc. is conspicuous by its absence?

SENATOR DUPONT: That's a good question and if you give me a minute I'll respond.

SENATOR NELSON: Thank you. That was a good answer. I had another question on page 2.

SENATOR DUPONT: Senator, let me answer your previous question. I believe the person that drafted that section was not sensitive to that issue and it was not done intentionally.

SENATOR NELSON: No sensitivity at all implied in the question. Gross oversight, would you believe, because the Capital Budget committee handles finances, but no sensitivity, nothing personal seen in the absence of the person.

SENATOR DUPONT: There was not, Senator and I assure you of that. And I would assume that in the wisdom of whoever makes this appointment that they might possibly have the opportunity to appoint a Senator who serves on Capital Budget as well as Transportation, Finance, etc.

SENATOR NELSON: Page 2. I just wanted a better understanding of why the change was made from appropriate fiscal year to the biennium?

SENATOR DUPONT: Because given the way our revenue flow has gone and the way federal monies come in, which now make up - at least in the case of our medicaid money - 25 percent of our general fund dollars, more than 25 percent right now just from the medicaid piece, that what happens at the end of the first year, if you do not make this change, all of the excess revenues that we have would go into the rainy day fund, thereby creating a deficit in the second year. So this is necessary, given our current financial situation, to take a look at the budget and the rainy day fund as a two-year cycle, rather than one year, because the existing statute would immediately put the revenues in the rainy day fund.

SENATOR NELSON: How long has it been in law? Since 1983 or 1985?

SENATOR DUPONT: Since we established the rainy day fund which I believe was back in 1985.

SENATOR NELSON: I noticed in your remarks you mentioned that due to the tough fiscal times this state is having, or economic times, are you suggesting that the reason you're changing it from a fiscal year to a biennium is because of the economic situation? Or should it remain that way for solid business practices?

SENATOR DUPONT: You know, Senator Nelson, that I've been a defender of biennial budgets, having a two-year budget, which makes us do some planning, so it does not make any sense that if we're looking at a two-year budget cycle that you would take action in the first year that would run counter to the full 24-month period. And that's what the rainy day fund does. And when we were having big surpluses it made sense, but now when you have the potential for deficits at the end of your first year, or a surplus at the end of the first year and a deficit at the end of the second, it doesn't make any sense to replenish the fund.

SENATOR NELSON: And a final question? A follow up on Senator Podles's question about the judicial vacancies. Are we in any way going to make it more difficult for the judicial branch of government

to do their job by pulling them before Fiscal committee? Is this going to put any time constraints on them or interfere at all?

SENATOR DUPONT: I don't believe so, Senator. It will, in fact, insure that the money is there to pay the person before the appointment is made.

SENATOR BASS: Mr. President, I rise in support of HB 1026. I received the bill yesterday and I spent a considerable period of time reading it. I was uncomfortable with certain sections. I liked other sections. I haven't really had the opportunity to talk with any member of the leadership of either party about this. There is nothing whatsoever in this bill that would benefit me or anybody in my district that I can tell. I disagree with what Senator Heath said with respect to the spirit of the Constitutional Amendment prohibiting budget footnotes. This is exactly what I think was envisioned when the Constitution was changed, that you'd have a clean budget and then after that you would have another bill that could be debated on the basis of whether the Senators liked the provisions of the bill, and either rejected or passed on that basis. I find this bill to be refreshingly free of efforts to either hire or fire specific individuals. I think that the provisions of the bill generally reflect legislation that the Senate has already adopted. I think that the House has given a lot of ground in their consideration of this bill, and I hope that the body will join me in voting in favor of this piece of legislation.

SENATOR DUPONT: I just wanted to rise to the purposes of responding to the issue that Senator Disnard raised. We have had our staff, the LBA staff, go back in and take a look at this to clarify the position. I was in error. It affects 16 people, and to the best of our knowledge, that is the maximum amount of people that would be affected as a result of this change, and as I indicated earlier, this does not appropriate any money for the purposes. It would have to come out of the special fund which was established a number of years ago to fund these additional benefits. So the correct number is 16, and only 16 will be impacted by this.

SENATOR HOLLINGWORTH: Thank you. I agree with Senator Bass when he says that this is free of footnotes, and that there is something in here for just about everybody, but I have to say that I'm not going to be able to support HB 1026 and HB 1025 with great reluctance. Not because of what's in it, but what's not in it. And I guess I have to listen to what the Chaplain said today because I've labored long and hard over thinking about this since this was not put in when the Finance committee and Conference committee met on 1025 and 1026. I did all the things that were necessary. I put a bill in for the aid to the totally and permanently disabled, because that bill

was repealed by rules, and those people who were going to receive aid for totally and permanently disabled, their costs were going to be sent back to the local governments, and that was done at the Governor's request because he wanted to mandate that anything that was not a cost in the federal government, the state would no longer pay for. So I put a bill in and it passed this body, and it passed the House policy committee, but when it went to Appropriations that bill died. The same thing happened to special medical assistance to families who have just left AFDC. Those families will no longer receive medical assistance, and if they need to have medical help, they will end up on the doorsteps of our towns and our cities. The Chaplain said this morning that people going into his church are worrying about where their next meal is coming from. And yet we, as a state that took in over \$330,000,000 on medicaid money this year, decided to cut off funds of \$900,000 to Aid to Totally and Permanently Disabled and \$300,000 to those who would receive medical assistance. They don't have a lobbying group. They don't have the University, who is going to be standing up here or over there saying that they need the money. They don't have the economic development people saying that they need this. Those people aren't going to be voting and sending me a check, or any of the others of you that feel that way. They have no voice, except us. And yet, because they don't have a strong voice, they were left out of this budget. I went to everybody I was sent to. I passed the bill. I went to see Junie. I went to see Ralph. I went to see Liz. I went to see Ed. And they got sick of seeing me and they said, "Go away." I think that's the thing that most disturbs me out of this whole process because I think that when we can spend \$100,000 for snowmaking, can spend all kinds of money on economic development, all the other things that we have in 1026, not to continue the services for the needy in this state, after we've taken in \$330,000,000 of medicaid money is repugnant to me, and I cannot support this bill because of what it doesn't have in it. And believe me, I am troubled by that. But I cannot do any differently, because to do so would be against all the reasons that I came here, the reasons I've spent 12 years here. And unfortunately, I will vote against both pieces.

SENATOR COLANTUONO: This is a question of information. I don't disagree with much you said, but I thought that when we passed that medicaid tax last year and gave an incentive to the hospitals of millions of dollars on their percentage that they are going to get now to serve poor people, that they were going to have to use that money to actually serve poor people. So my question is, because I don't know this and I wonder if you do, are they going to have to take care of those people you're talking about with that money?

SENATOR HOLLINGWORTH: No, they won't. That's \$40,000,000 I guess that went back to the hospitals, and I don't think that there is anything to make those hospitals pick up the need for the medical assistance. There is nothing that's going to make them do that. What happened with the special medical assistance - and we knew it worked - and what happened was the family who got a job, but still earned less than 165 percent of the federal poverty level would be kept on medical assistance for 12 months, because we knew if they could get medical coverage, if their kid got sick or their husband got sick, the one reason that they left their job and went back on AFDC was because they had a family member who was sick and they couldn't pay the bill. Nothing drove them back faster onto assistance. So that's why we originally supported that legislation. It's a money saver to the state, and yet we are repealing it because it's not a mandate by the federal government. And we have a Governor who says that he cares about families, but obviously he only cares about wealthy families, and families that have more than 165 percent of the poverty level.

SENATOR MCLANE: Yes, briefly. I listened very carefully to Senator Hollingworth. I, too, have a major gripe with something that isn't in this bill, and yet I have come to a different conclusion. I'm going to vote for the bill and I am distressed that a study committee that I was on having to do with organ transplants was not included in the budget, even though it only amounted, at that point, to \$100,000. Presently, the state of New Hampshire is the only state in the nation that takes the money for the grandstanding decisions to give someone a new heart, or a new lung, out of vocational rehabilitation . . . TAPE INAUDIBLE for voc rehab if someone can't go to work because they don't have a heart and in the meantime there are over 3,000 people on the waiting list at voc rehab, waiting for some small help from that agency. And I am deeply disappointed that we did not find a solution to this, and I still hope that we will be working to stop the political grandstanding of saying, "Sure, little kid, you need a new lung and we're going to pay for it and we're going to take it out of a thousand people who need hearing aids." And that, to me, is a wrong decision and I am disappointed in that decision, but I believe that the rest of the bill outweighs that personal bothering of mine.

SENATOR HEATH: I raise the question about the constitutionality of this legislation. The description of this is "relative to budget adjustments for fiscal year 1992 and 1993", that's the title of the bill. I refer to Article 18-a of the Second Part of the Constitution of the State of New Hampshire. It says the following: "All sections of all budget bills . . .". Let me go back, "relative to budget adjustments",

"... before the general court shall contain only the operating and capital expenses for the executive, legislative and judicial branches of government. No section or footnote of any such budget bill shall contain any provision which establishes, amends or repeals statutory law, other than provisions establishing, amending or repealing operating and capital expenses for the executive, legislative and judicial branches of government." I will not vote for this. I believe this is unconstitutional. I believe it is an affront to the people of the state of New Hampshire who voted for that provision in the Constitution to avoid this kind of chicanery, and I would urge you all, in respect to those citizens that we represent, to follow that example and ask them to go back and come up with something that doesn't change law in the way this does.

SENATOR HUMPHREY: Well, Mr. President, I have the same concern about the bill. I think Senator Heath makes a convincing argument about violation of the Constitution, but on a more work-a-day basis, I'm wondering what we can do next year to avoid bringing these very large omnibus bills containing a host of very important provisions, most of them unrelated, to the floor in one bill. We have before us today . . . we've dealt all year long with separate bills dealing with separate subjects and we're going to be dealing today with conference reports on those separate bills dealing with separate subjects and why we tolerate this kind of omnibus bill is a mystery to me. But in any event, it's clearly a bad practice because it's an 'all or nothing' bill. This is the kind of trick the Congress plays on the President of the United States year after year. They present him with a bill this thick, and it's yes or no, and what can he do? What can we do, except we can vote against it, which I intend to do on that basis. I do think it's important to acknowledge the long hours that members of the conference committees on the various bills, and especially this one, put in and the hard work and the toil that they've expended, but still as senators, we individually have the responsibility of passing judgment on what comes before us and I've done that. I'm going to vote against this bill. I have a number of questions that I'd like to be recognized for in due course. Let me begin at the back. Senator Dupont, please. I'm looking at page 38, Senator, this provision #76. I don't recall a senate bill to this effect. Was there a house bill?

SENATOR DUPONT: It was part of HB 1026 originally.

SENATOR HUMPHREY: Am I correct in my understanding that we are repealing a, shall we say, provision of fiscal discipline?

SENATOR DUPONT: Senator, I was one of the members of this senate that voted for the original debt management language that is in place and we are, in fact, suspending it. It is not a recommenda-

tion of any member of this legislature. It's a recommendation of our bond counsel and our state treasurer, and I do not believe we, as a legislature, are violating this year or have violated in the past, this provision of state law.

SENATOR HUMPHREY: Well, if we haven't violated in the past, then why are we proposing to waive it for three years?

SENATOR DUPONT: Senator, as I said earlier, and I'll repeat it one more time, that the state treasurer has made this recommendation, bond counsel has made this recommendation, the Governor's office has made this recommendation, as a result of legal issues that have arisen as a result of the sale of our state's bonds. And it was felt that based on what's happening with the fiscal health of our state government, that if we are going to suspend it that it be suspended for a period of time that would adequately assure that we are beyond the economic chaos that exists right now.

SENATOR HUMPHREY: Well, in other words, we're suspending this provision in anticipation of exceeding its limits sometime in the next two or three years.

SENATOR DUPONT: Senator, I can't tell you what the next legislature will do. All I can tell you is what you see in front of you, the recommendation of those that we hire and that are in our employ to deal with issues like this. And we're told that the state of New Hampshire would not be able to sell bonds if we did not do this.

SENATOR HUMPHREY: Mr. President, I and others throughout the biennium have raised the concern about our continually piling debt upon debt, and now we're being asked to remove . . . in protesting, we've often asked the question: well, how much is too much? What is the limit? Well, here's one of the limits and we're about to repeal it.

SENATOR DUPONT: Senator, we will not violate this limit this year. I can't tell you what the next legislature will do, but we, in fact, have every point in which we have gone forward with budget acts have consulted with the state treasurer, with the Governor's office - Ralph Brickett in the Governor's office - and we will be considerably below what we're allowed to bond on an annual basis and are in full compliance with this statute. But there are some technical problems with the statute.

SENATOR HUMPHREY: Parliamentary inquiry, Mr. President. Is this provision separable?

SENATOR DELAHUNTY (In the Chair): No, Senator, it is not.

SENATOR HUMPHREY: Why not?

SENATOR DELAHUNTY (In the Chair): Because, Senator, it is the Committee of Conference report and it has to be either adopted or rejected.

SENATOR HUMPHREY: That's very good. I appreciate that. Part of my continuing education, usually at some pain, I might add. A further question of Senator King, if I may? On page 16, the housing security program. Is this the refinancing thing that we dealt with two weeks ago or so? And earlier you responded that this was supportable because it wouldn't go into effect until a contingency fund was filled.

SENATOR W. KING: Until it's privately raised.

SENATOR HUMPHREY: What is the purpose of the contingency fund?

SENATOR W. KING: In the event that anyone defaults, so it would protect the guarantee.

SENATOR HUMPHREY: So the contingency fund would be used up prior to calling upon the full faith and credit of the state. And does the Housing Authority have authority to borrow any part of this \$500,000?

SENATOR W. KING: No.

SENATOR HUMPHREY: It has to be donated by a private entity?

SENATOR W. KING: That's correct.

SENATOR HUMPHREY: Thank you, Senator.

Senator Blaisdell moved the question.

Adopted.

Question is on the adoption of the Committee of Conference Report.

Paired Votes: Senator Currier and Senator Delahunty.

A roll call was requested by Senator Humphrey.

Seconded by Senator McLane.

The following Senators voted Yes: Oleson, W. King, Fraser, Hough, Dupont, Disnard, Roberge, Blaisdell, Bass, Pressly, Nelson, McLane, Podles, J. King, Russman, Shaheen.

The following Senators voted No: Heath, Colantuono, Humphrey, St. Jean, Hollingworth, Cohen.

Yeas 16

Nays 6

Committee of conference report is adopted.

Recess.

Senator Dupont in the Chair.

SUSPENSION OF THE RULES

Senator Hough moved that the rules be suspended to put HB 1026 on Third Reading and Final Passage at the present time.

Adopted.

HB 1026 is ordered to third reading and final passage.

Recess.

Out of recess.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

SB 319, separating the AFDC standard of need from the AFDC payment standard, increasing the AFDC standard of need and increasing medicaid eligibility for pregnant women and children.

SENATE CONCURS

SB 319, separating the AFDC standard of need from the AFDC payment standard, increasing the AFDC standard of need and increasing medicaid eligibility for pregnant women and children.

Senator J. King moved concurrence.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

SB 378, transferring duties under the uniform reciprocal enforcement of support act from county attorneys to the office of child support enforcement services.

SENATE CONCURS

SB 378, transferring duties under the uniform reciprocal enforcement of support act from county attorneys to the office of child support enforcement services.

Senator Podles moved concurrence.

Adopted.

HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

SB 443-FN, requiring the division for children and youth services to develop, implement and administer an automated case management system.

SENATE CONCURS

SB 443-FN, requiring the division for children and youth services to develop, implement and administer an automated case management system.

Senator J. King moved concurrence.

Adopted.

VETO MESSAGE

The House has voted to sustain the Governor's veto on the following Bill:

HB 1350, revising the laws that require a prescription to purchase a hypodermic needle.

6062L

COMMITTEE OF CONFERENCE REPORT ON HB 1052

The committee of conference to which was referred House Bill 1052, An Act relative to the appointment of the executive director of the fish and game department and allowing the governor to make more frequent appointments to the fish and game commission having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and

That the Senate recede from its position in adopting its amendment to the bill, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend RSA 206:8, I as inserted by section 2 of the bill by replacing it with the following:

I. The governor and council shall appoint an executive director of the fish and game department from a list of [5] **3 or more** names

submitted to the governor and council by the commission, each of whom shall be a person with knowledge of, and experience in, the requirements for the protection, conservation and restoration of the wildlife resources of the state and who shall be a competent administrator. The executive director shall hold office for a term of [5] 4 years from the date of his appointment and until his successor is appointed and qualified. A vacancy in such office shall be filled for the unexpired term. The governor and council shall have the authority to remove the executive director at any time, but only for just cause pursuant to RSA 4:1. In such case, the governor and council shall deliver to the executive director a copy of the charges against him and afford him an opportunity of being heard publicly in his own defense in person or by counsel after being given not less than 15 days' notice. The executive director shall not hold any other public office, and shall devote his entire time to the service of the state in the discharge of his official duties. He shall receive the compensation prescribed in RSA 94:1-4, and shall be reimbursed for all actual and necessary traveling and other expenses incurred by him in the discharge of his official duties. Before entering upon the duties of his office, he shall take the oath prescribed by the constitution, and shall, in addition thereto, swear that he holds no other public office nor any position under any political committee or party. Such oath shall be filed with the secretary of state. He shall have general supervision and control of all activities, functions and employees of the fish and game department, and shall enforce all the provisions of the laws of this state relating to fish, wildlife resources and marine species, and shall exercise all necessary powers incident thereto.

*Conferees on the Part
of the Senate*

Sen. Heath, Dist. 3
Sen. Dupont, Dist. 6
Sen. W. King, Dist. 2

*Conferees on the Part
of the House*

Rep. Dyer, Hills. 7
Rep. Dowd, Rock. 7
Rep. McGovern, Rock. 27
Rep. Letourneau, Merr. 8

Senator Heath moved to adopt the Committee of Conference Report.

Adopted.

6054L

COMMITTEE OF CONFERENCE REPORT ON HB 1105

The committee of conference to which was referred House Bill 1105, An Act relative to requiring disclosure of campaign contributions by candidates for local and school district elections having considered the same, report the same with the following recommendations:

Having considered the same, report the committee is unable to reach agreement.

*Conferees on the Part
of the Senate*

Sen. Bass, Dist. 11

Sen. Roberge, Dist. 9

Sen. Nelson, Dist. 13

*Conferees on the Part
of the House*

Rep. Holden, Hills. 9

Rep. Flanagan, Rock. 8

Rep. Trombly, Merr. 4

Rep. Peyron, Sull. 2

Senator Bass moved to adopt the Committee of Conference Report.

Adopted.

6063L

COMMITTEE OF CONFERENCE REPORT ON HB 1117

The committee of conference to which was referred House Bill 1117, An Act relative to the minimum age requirements for liquor license applicants, relative to employing minors in licensed establishments, and relative to games and amusements on the premises of on-sale licensees having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House each pass the bill as amended by the Senate.

*Conferees on the Part
of the Senate*

Sen. McLane, Dist. 15

Sen. Russman, Dist. 19

Sen. Hollingworth, Dist. 23

*Conferees on the Part
of the House*

Rep. Behrens, Sull. 3

Rep. Klemm, Rock. 22

Rep. R. Kelley, Hills. 13

Rep. Caswell, Rock. 12

Senator McLane moved to adopt the Committee of Conference Report.

Adopted.

6021L

COMMITTEE OF CONFERENCE REPORT ON HB 1123

The committee of conference to which was referred House Bill 1123, An Act establishing procedures for representation in small claims court and authorizing persons to appear for corporations, partnerships, and trusts in district court having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Representation by Attorneys; Small Claims Actions. Amend RSA 503 by inserting after section 2 the following new section:

503:2-a Representation by Attorneys.

I. Any attorney appearing in a small claims action on behalf of a party shall file an appearance with the court and shall provide copies of that appearance to all opposing parties at least 7 days prior to the hearing date.

II. The court shall give notice of the requirement to file an appearance under paragraph I to all parties in small claims actions.

III. Any party which fails to receive timely notice under paragraph II may request a continuance, which the court shall ordinarily grant.

2 New Section; Representation of Certain Corporations, Partnerships, and Trusts in Small Claims Actions. Amend RSA 503 by inserting after section 10 the following new section:

503:11 Representation of Certain Corporations, Partnerships, and Trusts.

I. To the extent not inconsistent with court rules, corporations, partnerships, and trusts may be represented in any small claims action before a district or municipal court as follows:

(a) A corporation with no more than 6 shareholders may be represented by any shareholder, officer or employee with the written authorization of all shareholders.

(b) A partnership with no more than 6 partners may be represented by any partner or employee with the written authorization of all general partners.

(c) A trust with no more than 6 beneficiaries may be represented by any trustee or employee with the written authorization of all trustees.

II. The requirement for written authorization in paragraph I shall be met by a document authorizing the representation by a particular individual in a particular matter and acknowledging that the corporation, partnership, or trust shall be bound by any agreement entered into by such individual or any order of the court in the matter. Any such written authorization shall be presented to the court under oath by the representative.

III. Nothing in this section shall prevent the court from denying representation by any individual it deems to be improper, inappropriate or unable to adequately represent the interests of the corporation, partnership, or trust.

3 Effective Date. This act shall take effect January 1, 1993.

*Conferees on the Part
of the Senate*

Sen. Colantuono, Dist. 14
Sen. Podles, Dist. 16
Sen. Hollingworth, Dist. 23

*Conferees on the Part
of the House*

Rep. E. Moore, Hills. 5
Rep. Lockwood, Merr. 6
Rep. A. Record, Hills. 23
Rep. Wall, Straf. 4

AMENDED ANALYSIS

This bill requires any attorney appearing on behalf of a party in a small claims action to file an appearance with the court and provide copies of that appearance to all opposing parties at least 7 days prior to the hearing date.

The bill also sets out certain requirements for persons representing corporations, partnerships and trusts of limited size in district courts.

Senator Colantuono moved to adopt the Committee of Conference Report.

Adopted.

6147L

COMMITTEE OF CONFERENCE REPORT ON HB 1128

The committee of conference to which was referred House Bill 1128, An Act classifying certain misdemeanors as either class A or class B having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by deleting sections 23 and 24 and renumbering the original section 25 to read as 23.

*Conferees on the Part
of the Senate*

Sen. Dupont, Dist. 6
Sen. Hollingworth, Dist. 23
Sen. Nelson, Dist. 13

*Conferees on the Part
of the House*

Rep. Lozeau, Hills. 25
Rep. Lown, Hills. 9
Rep. Burling, Sull. 1
Rep. D. Sytek, Rock. 20

AMENDED ANALYSIS

This bill:

(1) Designates certain misdemeanors as class B, crimes for which the maximum penalty is a fine not to exceed \$1,200. Class A misdemeanors are defined as having a maximum penalty of imprisonment for 1 year and a fine not to exceed \$2,000.

(2) Permits the state, at arraignment, after entry of appeal to superior court, or at any time with the agreement of the person charged, to reduce a class A misdemeanor to a class B.

(3) Provides that if a person is convicted of a class A misdemeanor but only sentenced to a fine or a suspended or deferred jail sentence not exceeding the maximum fine for a class B misdemeanor, the court shall record the conviction and sentence as a class B misdemeanor.

(4) Limits the authority of a court to detain a person charged with a class B misdemeanor pending arraignment.

(5) Prohibits a person convicted of a class B misdemeanor from appealing to the superior court.

(6) Requires the court to provide written notice to any person convicted of a class B misdemeanor that he has the right to apply to the court for an order to annul the conviction and sentence any time after one year following completion of the terms of the sentence. The order shall be issued provided the person has not committed a felony or misdemeanor during the period extending 1 year from sentencing to 1 year after completion of the terms of the sentence.

(7) Designates certain misdemeanors as class B misdemeanors.

Senator Hollingworth moved to adopt the Committee of Conference Report.

Adopted.

6034L

COMMITTEE OF CONFERENCE REPORT ON HB 1136

The committee of conference to which was referred House Bill 1136, An Act relative to regulation of small loans having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing sections 5 and 6 with the following:

5 New Paragraph; Definition; Loan Production Office. Amend RSA 384-B:1 by inserting after paragraph XII the following new paragraph:

XIII. "Loan production office" means any place of business located within this state at which a bank chartered by this state or any other state engages in loan origination or loan solicitation. These terms do not include acceptance of deposits or any other usual activities of banking. A loan production office of an out-of-state chartered bank is not a branch office within the meaning of the term "branch office" as defined in paragraph III of this section.

6 New Sections; Loan Production Offices; Rulemaking. Amend RSA 384-B by inserting after section 2 the following new sections:

384-B:2-a Loan Production Offices. A bank chartered by this or any other state may engage in the business of loan origination or loan solicitation at a loan production office in this state.

384-B:2-b Rulemaking. Pursuant to RSA 541-A, the bank commissioner may adopt such rules as he deems necessary for the administration and enforcement of this chapter. Such rules shall be consistent with the provisions of this chapter.

*Conferees on the Part
of the Senate*

Sen. Fraser, Dist. 4
Sen. Disnard, Dist. 8
Sen. McLane, Dist. 15

*Conferees on the Part
of the House*

Rep. C. D. Christy, Graf. 11
Rep. Lindblade, Sull. 5
Rep. Baker, Hills. 19
Rep. Hogan, Ches. 1

Senator Fraser moved to adopt the Committee of Conference Report.

Adopted.

Recess.

Senator Delahunt in the Chair.

SENATOR HUMPHREY: Mr. President, is it possible to consider and block the noncontroversial conference reports?

SENATOR DELAHUNTY (In the Chair): Senator, contrary each one has to be taken up individually.

SENATOR HUMPHREY: Says who?

SENATOR DELAHUNTY (In the Chair): Says the Chair. It is an amendment to the legislation and each amendment is offered separately and offered to the body for acceptance.

SENATOR HUMPHREY: We could waive the rule if a sufficient number of Senators were agreeable?

SENATOR DELAHUNTY (In the Chair): My understanding is that . . . I guess you could go about trying to do most anything, but the problem is that there is an awful lot involved and there are a lot

of pieces of the pie that have to be put together and you would have to vote each piece individually to feed each piece. It is quite a process and quite an involved process.

SENATOR HUMPHREY: I have a motion. Mr. President, I move that the Senate sustain whatever rules are necessary so that we may consider the remaining House Bill Conference Reports in block.

SENATOR DELAHUNTY: Thank you, Senator, I have been told, Senator, that the motion is out of order and I will give you an explanation in just a moment.

Recess.

Out of recess.

6122L

COMMITTEE OF CONFERENCE REPORT ON HB 1138

The committee of conference to which was referred House Bill 1138, An Act relative to the board of trust company incorporation's consideration of petitions for incorporation of savings banks having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and

That the Senate recede from its position in adopting its amendment to the bill, and

That the Senate and House adopt the following new amendment to the bill as passed by the House, and pass the bill as so amended:

Amend the bill by replacing all after the enacting clause with the following:

1 Consideration of Petition for Incorporation of Savings Bank. Amend the introductory paragraph of RSA 386-A:6 to read as follows:

Before acting on any petition, the board shall consider such evidence as may be presented by the petitioners and all other interested persons, firms and corporations, including members of the general public and shall keep a permanent record of such evidence. The petitioners shall submit to the board full information as to the identity and background of each person, firm or corporation who has subscribed to **3 percent or more of** the initial capital of the proposed bank, **including information on whether such person, firm or corporation held an equity interest of 3 percent or more in or served as a director or officer of a bank which has failed.** In making its decision on each petition, the board shall not take favorable action unless it determines that:

2 Professional Character of Applicant. RSA 386-A:6, IV is repealed and reenacted to read as follows:

IV. Each applicant demonstrates sufficient evidence of good professional character and reliability to satisfy the board that the applicant shall faithfully and conscientiously avoid professional misconduct; and

3 Study Committee Established. There is hereby established a study committee to examine issues and alternatives regarding consumer protection as it relates to banks and other financial institutions in New Hampshire. The committee shall consist of the following members:

I. Four house members, 2 of whom shall be members of the majority party and 2 of whom shall be members of the minority party, appointed by the speaker of the house. Two of these members shall be male and 2 shall be female.

II. Four senate members, 2 of whom shall be members of the majority party and 2 of whom shall be members of the minority party, appointed by the senate president. Two of these members shall be male and 2 shall be female.

4 Meetings; Mileage. The committee members shall be appointed within 30 days of the effective date of sections 3-5 of this act. The first-named house member shall call the first committee meeting within 2 weeks after members are appointed. The committee shall elect a chairperson at its first meeting. Members shall receive mileage while attending to the duties of the committee.

5 Duties; Report.

I. The committee shall examine the following:

(a) How to more greatly ensure the safety and soundness of the New Hampshire banking industry.

(b) How to ensure greater disclosure to the public about the financial soundness, investments, administration and workings of New Hampshire banks and financial institutions.

(c) The feasibility of creating a consumer advocate or agency to monitor consumer inquiries regarding New Hampshire banks and financial institutions.

(d) Any other consumer protection issues which relate to the banking industry in New Hampshire.

II. The committee shall hold at least 2 public hearings, one which is accessible to residents of the northern half of New Hampshire and one which is accessible to residents of the southern half of the state.

III. The committee shall submit a report, including any recommendations for legislation, to the speaker of the house and the senate president on or before November 1, 1992.

6 Effective Date.

I. Sections 3-5 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect 60 days after its passage.

*Conferees on the Part
of the Senate*

Sen. Fraser, Dist. 4

Sen. Pressly, Dist. 12

Sen. McLane, Dist. 15

*Conferees on the Part
of the House*

Rep. B. Packard, Hills. 15

Rep. Krueger, Sull. 6

Rep. Syracuse, Rock. 26

Rep. Porter, Sull. 9

AMENDED ANALYSIS

This bill requires petitioners for incorporation of a savings bank to submit to the board of trust company incorporation full information as to the identity and background of each person, firm or corporation who has subscribed to 3 percent or more of the initial capital of the proposed bank, including information on whether such person, firm or corporation has previously been involved held an equity interest in or served as a director or officer of a bank which has failed. The bill also requires the board to scrutinize the professional character and reliability of each applicant.

The bill also establishes a legislative study committee to examine issues regarding consumer protection as it relates to banks and other financial institutions in New Hampshire.

SENATOR FRASER: Mr. President, I urge that the Senate non concur on HB 1138. During the course of the Committee of Conference we added an amendment to create a study committee. It didn't have a public hearing, secondly there is a great deal in here that has already been addressed in other bills. I would like the opportunity to amend the bill and bring it back. The House has already prepared to concur on the amended version of the bill. I urge that we support the motion to non concur.

SENATOR HEATH: Senator Fraser, is this one that has been concurred to by the Senate, by the members of the Senate Conferees?

SENATOR FRASER: The present bill?

SENATOR HEATH: Yes.

SENATOR FRASER: Yes.

SENATOR HEATH: Who are the members or the conferees on that, do you know that?

SENATOR FRASER: I was on it, Senator Pressly, and Senator McLane.

SENATOR HEATH: If the three of you were on and you agreed to the Committee of Conference report, why would you then change your mind?

SENATOR FRASER: Because on reflection, Senator, and you would probably more than anyone else, we felt that we would be amiss in our duties by not having a public hearing on an amendment that was very important to the bill.

SENATOR HEATH: Do all of the other Conferees agree that we should non concur?

SENATOR FRASER: Yes, we all agree.

Senator Fraser moved to refuse to adopt the Committee of Conference.

Adopted.

Senator Fraser moved to discharge the committee and establish a new committee.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Fraser, Pressly, McLane.

SUSPENSION OF THE RULES

Senator Humphrey moved to suspend the rules of the Senate and adopt a consent calendar procedure to adopt the Committee of Conference reports with the exception of bills that Senators wish to discuss, and that all reports be acted upon with the one vote by the Senate to adopt.

SENATOR DELAHUNTY (In the Chair): It is my understanding that there are several pieces of legislation involved that various Senators want to discuss.

SENATOR HUMPHREY: If I may respond, Mr. President, included improvisment dealing with this package, any single Senator may call up any single or as many bills that she or he wishes, Conference Reports for separate consideration.

SENATOR DISNARD: I wish to speak in opposition. I understand what the Senator wants to do, if we had had these bills two or three days ago and had the opportunity to look at them, but I feel uncomfortable, I don't feel in fairness to my people that I represent, that I can carte blanche, approve every one here, because I haven't had a chance to look at them. I know that I can only look at them quickly, I

think that I might catch something that I might not agree on or have questions on. I think that this is a dangerous question for the Senate in terms of the time commitment. If the other Senators and I applaud them, I applaud them if they understand all of these bills and they know them, just from receiving them from this morning, I take my hat off to them, I wish that I had that ability, but I haven't had the time to pursue them. I object to this.

SENATOR HEATH: Senator Disnard, I agree wholeheartily that we should have had these, particularly the budget bill to look over for a few days at the very least, but in fact, as we have gone through these Committee of Conference reports, primarily there hasn't even been a report on them, I mean nobody has stood up to defend what was in them or anything else, so it seems to me that there isn't much reason for doing these one at a time if there is nobody here to give an explanation on what compromises are reached between the House and the Senate versions, what deletions or additions were made in the bills and most of these reports this morning have not had that. So if we are going to rubber stamp our Committees of Conference, it seems to me, that we ought to do it in the most efficient way. Don't you agree that you haven't gotten a lot of information, with that premise, Senator Disnard, do you not agree that we have not had much information about these reports with the exception of the budget bill?

SENATOR DISNARD: No, because any time that anyone asked a question, they received it.

SENATOR HEATH: Senator Disnard, do you understand that on any of these bills, including all of these bills that would be effected by this, you could pull it off and ask questions and have it treated individually?

SENATOR DISNARD: I agree, Senator, but I haven't had a chance to go through everyone of these, just receiving them this morning to know what is in them. I know it is being redundant, I know they go quickly, but at least I have an opportunity to hopefully catch something.

SENATOR HEATH: When we have gone several more and we don't get reports and we don't know what is in them, would you reconsider your position?

SENATOR DISNARD: Senator, No.

SENATOR DUPONT: Mr. President and members of the Senate, I had the distinct pleasure of having to spend the last two weeks riding herd over all 70 of the Committee of Conferences that were out there and I certainly, if the members of the Senate would like an

opportunity to speak on every piece of legislation and would like an explanation of everything that is here, then I suppose that we could give that to them. One of our objections has always been to the House process which doesn't give sufficient time for members to look at legislation as it goes through the process and although there may be some reluctance to do that at this point, we have just spent about 15 to 20 minutes debating this and we could have had eight or ten bills done during that time and the people that had the opportunity to discuss or want an opportunity to discuss each one of these could have had that opportunity. To my colleagues, we probably have one or two hours work ahead of us and I suggest that rather than changing the process, that we just get on with our work at this time.

SENATOR HEATH: Senator Dupont, the first time that I saw the budget bill was today when I came to my seat. Now there may have been a way that I could have seen it a day earlier, I don't know, but I didn't have it in my possession a day earlier, it seems to me it is pointless unless you are going to when the Committees of Conference are finalized, to take those reports and circulate them a week ahead and call the session a week later so that people can come in here better informed. It is a little pointless to try to discern what is in particular, a budget bill that is as complicated, complex and fraught with potential important and impacting legislation. It is impossible in the time limit of a day or two days on the floor to consider those in a forthright manner. Given that you did not offer that opportunity by moving this session day forward after the compromise is reached, why would you argue against this motion?

SENATOR DUPONT: Senator, because this in fact, gives everybody in this body less of a chance to look at what is going through. Let me just tell you, Senator, that these Committees of Conferences were signed off Thursday and Friday of last week, it has been five days. Those were available to any member of this chamber that wanted to go down and look at them and in fact, we made copies of these various pieces available to members of this body that came up and requested them. But the fact of the matter is, whether we want to acknowledge it or not, it is not our rules, it is the fact that people wait until the last minute to deal with the Committee of Conferences and at five o'clock in the afternoon, on the day of the deadline, there is a waiting line outside of the Legislative Services Office to sign these things off. So rather than blame the leadership in putting everything on your desk today, we ought to look in a mirror at ourselves and say that when a Committee of Conference is assigned, rather than waiting for the day that it is due, let us get together and get the things done, in fact it got so bad this year, that we had to stop the clock on Thursday night so that they would have another 24

hours, and quite frankly, there was still a line at 6 oclock on Friday night to get things signed off. I make no apologies about what is happening in terms of the timing issue, because I have been here for the last three weeks, Senator Heath, 15 hours a day trying to get this stuff done, but if the body doesn't want to cooperate and get their work done, it is not my problem.

SENATOR HEATH: I appreciate that it is not your fault that it is all of our faults, I don't fully understand how that is, but you said something interesting, and this further deteriorates the ability to address these bills and yet it is clear in Senator Humphrey's motion that anybody can pull any bill off and look at it and discuss it and it would get it's own consideration on it's own merits or lack thereof. How does this hinder us moving forward in the least?

SENATOR DUPONT: Senator, it doesn't hinder it, I just questioned the intent of doing it, whether it is necessary or not at this point in the process. I would suggest that you and I probably aren't coming back next year, and if you want to come back and lobby for rules that allow for a consent calendar, that it be done appropriately at the start of the session rather than at the end. Quite frankly, again as I said earlier, we could have had 10 or 15 bills done by now instead of debating this issue, let us get on with our work.

Question is on the motion of suspending the rules.

Motion failed.

Recess.

Senator Dupont in the Chair.

6133L

COMMITTEE OF CONFERENCE REPORT ON HB 1175

The committee of conference to which was referred House Bill 1175, An Act creating a committee to study medical liability insurance in New Hampshire having considered the same, report the same with the following recommendations:

Having considered the same, report the committee is unable to reach agreement.

Conferees on the Part of the Senate

Sen. Delahunty, Dist. 22

Sen. Nelson, Dist. 13

Sen. Bass, Dist. 11

Conferees on the Part of the House

Rep. Drolet, Hills. 8

Rep. R. Hill, Graf. 1

Rep. Krueger, Sull. 6

Rep. Syracuse, Rock. 26

Senator Delahunty moved to adopt the Committee of Conference Report.

Adopted.

6091L**COMMITTEE OF CONFERENCE REPORT ON HB 1182-FN**

The committee of conference to which was referred House Bill 1182-FN, An Act authorizing the division of human services to establish a system to recoup child support payments made in error clarifying confidentiality of certain information and allowing the division to close certain cases having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing section 1 with the following:

1 New Paragraph; Rulemaking Authorized; System of Recouping Child Support Payments Made in Error. Amend RSA 161:4-a by inserting after paragraph VIII the following new paragraph:

VIII-a. The establishment, maintenance, and direction of a reasonable and fair system of recouping payments made in error from child support collected pursuant to RSA 161:2, XVI, or other means as allowed by law. Such system shall include, but shall not be limited to, grounds for appeal on the basis of economic hardship.

Amend the bill by deleting section 5 and renumbering the original section 6 to read as 5.

*Conferees on the Part
of the Senate*

Sen. J. King, Dist. 18

Sen. Podles, Dist. 16

Sen. McLane, Dist. 15

*Conferees on the Part
of the House*

Rep. Robinson, Hills. 12

Rep. Connell, Rock. 4

Rep. Nordgren, Graf. 12

Rep. D. Hall, Merr. 7

AMENDED ANALYSIS

This bill grants the division of human services rulemaking authority to establish and operate a system for recouping child support payments made in error.

This bill clarifies the confidentiality of certain information held by the division.

This bill also prohibits the director of the division of human services from seeking to enforce a child support obligation which has been terminated by court order or by operation of law for more than 5 years.

Senator J. King moved to adopt the Committee of Conference Report.

SENATOR NELSON: Senator King, I just wanted a little better meaning, I just wondered what this means, "authorizing the Division of Human Services to establish a system to recoup child support payments made in error, clarifying confidentiality of certain information? Are they changing at all in any way the confidentiality standards or what?

SENATOR J. KING: They are improving them.

SENATOR NELSON: In what respect?

SENATOR J. KING: I think that it had to do with the court allowing certain information be given out relative to that case and only by the court, I guess.

SENATOR NELSON: No other information?

SENATOR J. KING: Right offhand, I don't know. Senator McLane probably would know more.

SENATOR NELSON: I would just like to know what kind of information, if we are dealing with confidentiality, I am just curious of what kind of information, if we are going through everyone of these, I want to make sure that I understand everything.

SENATOR J. KING: Yes, I do. It had to do with insurance, whether they had medical and health insurance and that information could be put with the court when the order is made.

SENATOR NELSON: Thank you.

Adopted.

6096L

COMMITTEE OF CONFERENCE REPORT ON HB 1211

The committee of conference to which was referred House Bill 1211, An Act permitting public employees to file an unfair labor practice complaint after a certain time without exhausting administrative remedies having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend RSA 273-A:6, I as inserted by section 1 of the bill by replacing it with the following:

I. The board shall have primary jurisdiction of all violations of RSA 273-A:5, but no complaint may be filed with the board for violation of RSA 273-A:5, I(c) or (d) [either] until the complainant has exhausted the [administrative remedies provided by statutes other than this chapter] **grievance procedures in the complainant's collective bargaining agreement.**

*Conferees on the Part
of the Senate*

Sen. Currier, Dist. 7
Sen. J. King, Dist. 18
Sen. Dupont, Dist. 6

*Conferees on the Part
of the House*

Rep. Hawkins, Belk. 5
Rep. Dow, Graf. 8
Rep. Elliott, Hills. 2
Rep. Hawkinson, Coos 8

AMENDED ANALYSIS

This bill permits a public employee to file unfair labor practice charges without exhausting administrative remedies of statutes other than RSA 273-A, provided that for certain unfair labor practice charges the complainant shall have exhausted grievance procedures in the complainant's collective bargaining agreement.

Senator J. King moved to adopt the Committee of Conference Report.

Adopted.

6168L

COMMITTEE OF CONFERENCE REPORT ON HB 1255-FN

The committee of conference to which was referred House Bill 1255-FN, An Act relative to the number of big bingo games charitable organizations may conduct and increasing the one game date prize total value from \$3,500 to \$14,000 having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and

That the Senate recede from its position in adopting its amendment to the bill, and

That the Senate and House adopt the following new amendment to the bill as passed by the House, and pass the bill as so amended:

Amend the bill by replacing all after the enacting clause with the following:

1 Bingo Games and Lucky 7 Tickets Study. The director of the sweepstakes commission shall conduct a comprehensive study of the operation of bingo games and the sale of lucky 7 tickets in the state of New Hampshire, including a comparison of those operations and sales with the operation of bingo games and the sale of lottery tick-

ets in the other New England states, especially the state of Vermont. The director shall determine what changes must be made to the current operation of bingo games and the sale of lucky 7 tickets, which changes would result in reorganization of the laws governing bingo games and lucky 7 tickets and in realization of the original charitable intent of those programs.

2 Scope of Study. The director shall study the following:

I. The general operation of bingo games in the state, including the operation and functioning of commercial bingo halls in the state.

II. Whether the operation of bingo games and the sale of lucky 7 tickets in the state is accomplishing the intended goal of those programs which was to raise moneys to be used for charitable organizations or charitable purposes.

III. Whether the number of inspectors employed by the sweepstakes commission is adequate to implement the enforcement responsibilities of the commission.

IV. The commission's access to and support from the department of justice and the division of the state police relative to enforcement actions.

3 Report. The director of the sweepstakes commission shall make a report on the findings of the study, including any recommendations for legislation, to the speaker of the house and the president of the senate no later than January 1, 1993.

4 Effective Date. This act shall take effect upon its passage.

*Conferees on the Part
of the Senate*

Sen. McLane, Dist. 15

Sen. Russman, Dist. 19

Sen. J. King, Dist. 18

*Conferees on the Part
of the House*

Rep. R. Kelley, Hills. 13

Rep. Behrens, Sull. 3

Rep. Horton, Coos 4

Rep. Rosencrantz, Rock. 15

AMENDED ANALYSIS

This bill requires the director of the sweepstakes commission to study the current operation of bingo games and the sale of lucky 7 tickets in the state of New Hampshire and to make a report to the speaker of the house and the senate president by January 1, 1993.

Senator McLane moved to adopt the Committee of Conference Report.

SENATOR NELSON: Senator McLane, I noticed that the change was from \$3,500 to \$14,000, the way that it is read, is that replaced by the study committee?

SENATOR MCLANE: Yes, exactly. It was the feeling that the small bingos would be hurt by the larger prize, so we were going to kill the bill, and at this point, we got into sort of the politics of bingos and it is one heck of a royal mess. I think that we need a study committee.

Adopted.

5934L

COMMITTEE OF CONFERENCE REPORT ON HB 1256-FN-A

The committee of conference to which was referred House Bill 1256-FN-A, An Act requiring the department of transportation to study the United States Route 3 and New Hampshire Route 11 transportation corridor having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and

That the Senate recede from its position in adopting its amendment to the bill, and

That the Senate and House each pass the bill as amended by the House.

*Conferees on the Part
of the Senate*

Sen. Oleson, Dist. 1

Sen. Cohen, Dist. 24

Sen. Currier, Dist. 7

*Conferees on the Part
of the House*

Rep. G. Chandler, Carr. 1

Rep. Weeks, Merr. 21

Rep. D. Wheeler, Hills. 10

Rep. Frechette, Straf. 8

Senator Oleson moved to adopt the Committee of Conference Report.

Adopted.

6031L

COMMITTEE OF CONFERENCE REPORT ON HB 1278-FN-LOCAL

The committee of conference to which was referred House Bill 1278-FN-LOCAL, An Act permitting towns to make bylaws for refuse disposal in specifically-designated bags and altering district court procedure for levying fines against bylaws violators having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House each pass the bill as amended by the Senate.

*Conferees on the Part
of the Senate*

Sen. W. King, Dist. 2

Sen. Fraser, Dist. 4

Sen. McLane, Dist. 15

*Conferees on the Part
of the House*

Rep. R. Campbell, Belk. 5

Rep. Hultgren, Hills. 1

Rep. D. Cote, Hills. 25

Rep. Bradley, Carr. 6

Senator W. King moved to adopt the Committee of Conference Report.

Adopted.

6033L

**COMMITTEE OF CONFERENCE REPORT
ON HB 1287-LOCAL**

The committee of conference to which was referred House Bill 1287-LOCAL, An Act enabling certain municipalities to issue tax lien redemption notes and relative to the transfer of tax liens having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and

That the Senate recede from its position in adopting its amendment to the bill, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the bill by replacing section 5 with the following:

5 Effective Date. This act shall take effect upon its passage.

*Conferees on the Part
of the Senate*

Sen. Bass, Dist. 11

Sen. Nelson, Dist. 13

Sen. Delahunty, Dist. 22

*Conferees on the Part
of the House*

Rep. Perry, Ches. 10

Rep. Golden, Belk. 7

Rep. Middleton, Sull. 6

Rep. R. Gage, Hills. 6

Senator Bass moved to adopt the Committee of Conference Report.

SENATOR DISNARD: Senator Bass, what does the bill now say?

SENATOR BASS: Let me have a brief recess and I will pull out the bill, Senator Disnard.

Recess.

Out of recess.

SENATOR BASS: First of all, the bill itself contains a mechanism whereby towns can sell tax redemption notes in order to improve cash flow during the two year period, the taxes are due, but not paid. The Senate added an amendment which would have enabled towns

to extend from two years to three years, the period of time in which the tax deed could be taken. The Senate exceeded to the House position which was in opposition to that amendment, so the motion before us now, is to pass the bill as it came to us from the House.

SENATOR DISNARD: Thank you very much, I understand it now, I appreciate it.

Adopted.

6135L

COMMITTEE OF CONFERENCE REPORT ON HB 1295

The committee of conference to which was referred House Bill 1295, An Act prohibiting discrimination in insurance policies against elected or appointed officials having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing all after section 1 with the following:

2 Motor Vehicle Warranty Agreements. Amend RSA 407-A:1, I(c) to read as follows:

(c) Where the dealer or manufacturer has first filed for approval with the [consumer protection division in the office of the attorney general] **insurance commissioner**:

3 Surety Bonds. Amend RSA 407-A:3-a to read as follows:

407-A:3-a Surety Bond. Every manufacturer, importer or distributor of passenger automobiles and pickup trucks with a rated load of 1-1/2 tons or less shall certify to the [consumer protection and anti-trust division in the office of the attorney general] **insurance commissioner** assets of not less than \$50,000 located in New Hampshire or shall post a surety bond of not less than \$50,000 with said division to insure warranties. The type of surety bond shall be designated by the [consumer protection and antitrust division in the office of the attorney general] **insurance commissioner**. No bond shall be accepted for filing unless it is with a surety company authorized to do business in this state.

4 Repeal. RSA 21-M:9, II(t), relative to administration and enforcement of RSA 407-A by the department of justice, is repealed.

5 Effective Date.

I. Section 1 of this act shall take effect January 1, 1993.

II. The remainder of this act shall take effect 60 days after its passage.

*Conferees on the Part
of the Senate*

Sen. Delahunty, Dist. 22

Sen. Nelson, Dist. 13

Sen. Bass, Dist. 11

*Conferees on the Part
of the House*

Rep. Krueger, Sull. 6

Rep. Porter, Sull. 9

Rep. Mercer, Hills. 23

Rep. Allison, Sull. 7

AMENDED ANALYSIS

This bill requires that all rate modifications of accident and health insurance policies be filed with the insurance department prior to implementation and that such rate changes be in compliance with loss ratio guarantees filed with the department.

This bill transfers from the department of justice to the insurance department the authority for approving certain motor vehicle warranty agreements and surety bonds.

Senator Nelson moved to adopt the Committee of Conference Report.

Adopted.

5787L

COMMITTEE OF CONFERENCE REPORT ON HB 1305

The committee of conference to which was referred House Bill 1305, An Act permitting the carrying and selling of antique gun canes having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by inserting after section 2 the following and renumbering the original section 3 to read as 4.

3 New Section; Criminal Use of Sword Cane or Pistol Cane. Amend RSA 159 by inserting after section 19 the following new section:

159:19-a Criminal Use of Pistol Cane or Sword Cane.

I. Any person who uses a pistol cane or sword cane on another person with intent to commit a crime punishable as a misdemeanor shall be guilty of a misdemeanor.

II. Any person who uses a pistol cane or sword cane on another person with intent to commit a crime punishable as a felony shall be guilty of a class B felony.

III. Neither the whole nor any part of a sentence of imprisonment imposed for a violation of this section shall be served concurrently with any other term of imprisonment.

*Conferees on the Part
of the Senate*

Sen. Heath, Dist. 3
 Sen. W. King, Dist. 2
 Sen. Cohen, Dist. 24

*Conferees on the Part
of the House*

Rep. Benton, Rock. 5
 Rep. Daly, Carr. 3
 Rep. Walsh, Sull. 7
 Rep. R. Chasse, Hills. 27

AMENDED ANALYSIS

This bill permits the sale of pistol canes and sword canes.

This bill also makes it a crime for any person to use a pistol cane or sword cane on another person with intent to commit a crime.

Senator Heath moved to adopt the Committee of Conference Report.

Adopted.

6027L

**COMMITTEE OF CONFERENCE REPORT
ON HB 1329-FN-LOCAL**

The committee of conference to which was referred House Bill 1329-FN-LOCAL, An Act specifying the time for the municipal treasurer to make payments of annual budget funds to the village district having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House each pass the bill as amended by the Senate.

*Conferees on the Part
of the Senate*

Sen. Bass, Dist. 11
 Sen. Pressly, Dist. 12
 Sen. Roberge, Dist. 9

*Conferees on the Part
of the House*

Rep. Golden, Belk. 7
 Rep. E. Lawrence, Hills. 20
 Rep. P. Cote, Rock. 11
 Rep. D. Soucy, Hills. 39

Senator Bass moved to adopt the Committee of Conference Report.

Adopted.

6030L

COMMITTEE OF CONFERENCE REPORT ON HB 1330

The committee of conference to which was referred House Bill 1330, An Act prohibiting certain credit card practices involving providers of travel services having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend RSA 358-N:4 as inserted by section 1 of the bill by replacing it with the following:

358-N:4 Exemption. This chapter shall not apply to scheduled airlines.

*Conferees on the Part
of the Senate*

Sen. Fraser, Dist. 4

Sen. McLane, Dist. 15

Sen. Pressly, Dist. 12

*Conferees on the Part
of the House*

Rep. C. D. Christy, Graf. 11

Rep. Hunt, Ches. 9

Rep. Rogers, Hills. 19

Rep. Baker, Hills. 19

AMENDED ANALYSIS

This bill prohibits providers of travel services, as distinguished from travel agents who usually act as agents of such providers, from deducting credit card fees from the commissions due a travel agent when the consumer uses a credit card to obtain credit in the transaction. The bill exempts scheduled airlines from the application of the chapter.

Senator Fraser moved to adopt the Committee of Conference Report.

SENATOR NELSON: Senator Fraser, I just wondered if you might know what this means, that it would not apply to scheduled airlines?

SENATOR FRASER: The tour operator might put me on a scheduled airline, to get to a cruise ship down in Puerto Rico and I am concerned about the fact that that might have defeated the purpose of the whole bill that was to protect the travel agents against having dues coming out of their credit cards for commission. So the House and I agreed to just change it to scheduled airlines, so if there is a charter flight, an airline, lets say from Boston to Puerto Rico it would be excluded, it would not be excluded. The only thing that would be excluded TAPE INAUDIBLE.

SENATOR NELSON: What do they want to do, they didn't want travel agents?

SENATOR FRASER: Tour operators. What is happening here is that the airlines, the Commissioner of airlines have a way, first of all it is a negotiation between the agent and the airline, a commission, but the tour operators were taking all of the costs of the credit card out of the travel agents commission.

SENATOR NELSON: So, this is protecting . . . this is protecting the travel agent?

SENATOR FRASER: Yes.

SENATOR NELSON: What is it doing for the travel, the consumer?

SENATOR FRASER: Not a thing.

SENATOR NELSON: No, nothing for him, but we are helping the travel persons make the money.

SENATOR FRASER: The travel agents.

SENATOR NELSON: Thank you.

Adopted.

6043L

COMMITTEE OF CONFERENCE REPORT ON HB 1332

The committee of conference to which was referred House Bill 1332, An Act removing the prohibition on use or possession of tobacco products by minors having considered the same, report the same with the following recommendations:

having considered the same, report the committee is unable to reach agreement.

Conferees on the Part of the Senate

Sen. J. King, Dist. 18

Sen. McLane, Dist. 15

Sen. Podles, Dist. 16

Conferees on the Part of the House

Rep. McCain, Rock. 11

Rep. Lockwood, Merr. 6

Rep. Robinson, Hills. 12

Rep. L. Johnson, Hills. 37

Senator J. King moved to adopt the Committee of Conference Report.

Adopted.

6058L

COMMITTEE OF CONFERENCE REPORT ON HB 1344-LOCAL

The committee of conference to which was referred House Bill 1344-LOCAL, An Act requiring the house environment and agriculture and the senate environment committees to review the laws relative to solid waste management having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend RSA 33:3-f, I as inserted by section 2 of the bill by replacing it with the following:

I. The governor and council may award an unconditional state guarantee of the principal of and interest on bonds issued under RSA 33:3-e. The full faith and credit of the state shall be pledged for any such guarantees of principal and interest. The amount of the state guarantee available under this section shall not exceed the following principal amounts, plus interest:

(a) Effective upon passage \$25,000,000

(b) For the fiscal year 1995, an additional 25,000,000

*Conferees on the Part
of the Senate*

Sen. W. King, Dist. 2

Sen. Hough, Dist. 5

Sen. Shaheen, Dist. 21

*Conferees on the Part
of the House*

Rep. Bean, Graf. 13

Rep. C. Brown, Graf. 13

Rep. E. Greene, Rock. 18

Rep. Chambers, Graf. 12

AMENDED ANALYSIS

This bill requires the house environment and agriculture and the senate environment committees to review the laws relative to solid waste management and to introduce legislation in the 1993 legislative session pertaining to the recodification of these laws.

This bill also authorizes the issuance of state guaranteed bonds to pay municipal cleanup costs for superfund hazardous waste sites. The amount awarded could not exceed \$20,000,000 per superfund site, with the cap on the bonding amount for all sites set at \$50,000,000 through fiscal year 1995.

Senator W. King moved to refuse the Committee of Conference report.

Adopted.

Senator W. King moved to discharge the committee and establish a new committee.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: W. King, Hough, Shaheen.

6070L

COMMITTEE OF CONFERENCE REPORT ON HB 1357

The committee of conference to which was referred House Bill 1357, An Act establishing a committee to study the concept of in-

home care as an alternative to institutionalized care having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing all after section 4 with the following:

5 Home Health Care Providers. Amend RSA 195-D:3, II(b) to read as follows:

(b) In the case of a participating **health care institution** or hospital, means any structures designed for use as a hospital, clinic, nursing home providing sheltered care, intermediate care, life-care, continuing care or medical services, health maintenance organization, **home health care provider**, or other health care facility, laboratory, laundry, nurses' or interns' residence or other multi-unit housing facility for staff, employees, patients or relatives of patients admitted for treatment in such hospital or nursing home, or health maintenance organization, doctors' office building, appropriately designed housing facilities for the residence or care of the elderly, administration building, research facility, maintenance, storage, or utility facility or other structures or facilities related to any of the foregoing or required or useful for the operation of a hospital or a nursing home or a health maintenance organization **or a home health care provider**, including parking and other facilities or structures essential or convenient for the orderly conduct of such hospital or nursing home or health maintenance organization **or home health care provider**, and shall include all real and personal property, lands, improvements, driveways, roads, approaches, pedestrian access roads, rights-of-way, utilities, easements, parking lots, machinery and equipment, and all other appurtenances and facilities either on, above or under the ground which are used or usable in connection with any of the aforementioned structures, and shall also include landscaping, site preparation, furniture, machinery and equipment and other similar items necessary or convenient for the operation of a particular facility or structure in the manner for which its use is intended but shall not include such items as food, fuel, supplies, or other items which are customarily considered as a current operating charge.

6 Adding Home Health Care Providers to the Definition of Participating Health Care Institution. Amend RSA 195-D:3, VIII to read as follows:

VIII. "Participating health care institution" means a hospital, or nursing home, or health maintenance organization **or home health**

care provider which, pursuant to the provisions of this chapter, undertakes the financing and construction or acquisition of a project or undertakes the refunding or refinancing of bonds or other obligations or of a mortgage or of advances as provided in and permitted by this chapter.

7 Residential Care Facilities Added. Amend RSA 195-D:3, XII to read as follows:

XII. "Nursing home," notwithstanding any other provision of law to the contrary, means any nonprofit or charitable institution or organization, public or private, which is exempt from federal taxation pursuant to section 501 of the United States Internal Revenue Code of 1986 as amended, and which is engaged in the operation of, or formed for the purpose of operating, a facility in which nursing care, sheltered care, intermediate care, life-care or continuing care, and medical services are prescribed by or performed under the general direction of persons licensed to practice medicine or surgery in New Hampshire, and in whole or in part is, **or** shall be upon completion, (a) **licensed as a residential care facility under RSA 151:2, I(e)** or (b) can be upon receipt of a certificate of need under RSA 151-C licensed as a nursing home under the laws of New Hampshire.

8 New Paragraph; Definition of Home Health Care Provider. Amend RSA 195-D:3 by inserting after paragraph XV the following new paragraph:

XVI. "Home health care provider," means a home health care provider as defined in RSA 151:2-b which offers, and is licensed under RSA 151:2, I(b) to offer health care services and which is a nonprofit or charitable institution or organization, public or private, which is exempt from federal taxation pursuant to section 501 of the United States Internal Revenue Code of 1986 as amended.

9 Effective Date. This act shall take effect 60 days after its passage.

*Conferees on the Part
of the Senate*

Sen. J. King, Dist. 18
Sen. McLane, Dist. 15
Sen. Podles, Dist. 16

*Conferees on the Part
of the House*

Rep. K. Foster, Ches. 17
Rep. D. Hall, Merr. 7
Rep. Copenhaver, Graf. 12
Rep. Amidon, Hills. 7

AMENDED ANALYSIS

This bill establishes a committee to study the feasibility of developing a pilot program to provide in-home care to persons who would otherwise be institutionalized.

The committee is to submit its report together with its recommendations for legislation on or before November 1, 1992.

The bill includes licensed residential care facilities within the definition of "nursing home" in RSA 195-D. A participating institution under RSA 195-D may qualify for a loan made by the New Hampshire Higher Educational and Health Facilities Authority.

The bill also adds home health care providers to the facilities and institutions covered under the higher educational building corporation chapter.

Senator J. King moved to adopt the Committee of Conference Report.

Adopted.

6068L

COMMITTEE OF CONFERENCE REPORT ON HB 1374

The committee of conference to which was referred House Bill 1374, An Act establishing a task force on women at risk for alcohol and other drug abuse during pregnancy having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend RSA 132:19 as inserted by section 2 of the bill by replacing it with the following:

132:19 Task Force Established; Membership.

I. There is established the task force on prenatal chemical dependency. The task force shall be composed of the following members:

(a) Two members of the house of representatives, appointed by the speaker of the house.

(b) Two members of the senate, or designees, appointed by the president of the senate.

(c) The director of the office of alcohol and drug abuse prevention; or designee.

(d) Two members from the medical community, preferably obstetricians, appointed by the governor.

(e) The director of the division of public health services, department of health and human services, or designee.

(f) The director of the division for children and youth services, department of health and human services, or designee.

(g) The commissioner of the department of education, or designee.

(h) The chairman of the state liquor commission, or designee.

(i) A representative of the New Hampshire Family Planning Council, appointed by such council.

(j) A registered nurse, appointed by the New Hampshire Nurses Association.

(k) A midwife, appointed by the Nurse Practitioner Association.

II. The term of office for members of the task force, except those appointed under subparagraphs I(d), (i), (j) and (k) shall be coterminous with the term of office in the position that qualifies that member to be a member of the task force. The term of office of each member appointed under subparagraphs I(d), (i), (j) and (k) shall be 2 years and until a successor is appointed and qualified.

*Conferees on the Part
of the Senate*

Sen. J. King, Dist. 18

Sen. Hollingworth, Dist. 23

Sen. Podles, Dist. 16

*Conferees on the Part
of the House*

Rep. Holmes, Merr. 13

Rep. Amidon, Hills. 7

Rep. K. Foster, Ches. 17

Rep. Ziegra, Belk. 6

Senator J. King moved to adopt the Committee of Conference Report.

Adopted.

6148L

COMMITTEE OF CONFERENCE REPORT ON HB 1376-FN-LOCAL

The committee of conference to which was referred House Bill 1376-FN-LOCAL, An Act requiring the department of environmental services to assume 20 percent of eligible costs of the Conway sewer system project and making an appropriation for costs payments having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend RSA 486:3, II as inserted by section 1 of the bill by replacing it with the following:

II. In addition to any state contribution provided in this chapter, the commissioner of the department of environmental services, with approval from the governor and council, may, upon review of plans submitted by a municipality, and within the limits of available appropriations, pay 10 percent of the annual am-

ortization charges, meaning principal and interest, on the eligible costs resulting from the acquisition and construction of sewage disposal facilities when such acquisition or construction will result in user fees that are 20 percent above the state-wide average for residential users, due to the adverse impact on the municipality's residence and businesses caused by such user fees. The term "eligible costs" as used in this paragraph shall exclude land acquisition, except for land which shall be an integral part of a treatment process; easements and rights of way necessary to the project; collector sewers; and any administrative, legal and fiscal costs related to the project.

Amend paragraph III of section 2 of the bill by replacing it with the following:

III. In addition to any other payments by the state of New Hampshire to the North Conway Water Precinct, the sum of \$500,000 is hereby appropriated for fiscal year 1992 from funds already appropriated for fiscal year 1992, and the sum of \$500,000 is hereby appropriated for fiscal year 1993 from funds already appropriated for fiscal year 1993, to the department of environmental services for water pollution state aid grants. This appropriation is in recognition of extra ordinary and unusual circumstances surrounding the situation of the North Conway water district and shall not be construed as precedent setting.

Amend the introductory paragraph of RSA 486:1, III as inserted by section 3 of the bill by replacing it with the following:

III. Notwithstanding the provisions of paragraph I and II, beginning July 1, 1993, the state of New Hampshire shall pay 20 percent of the annual amortization charges, meaning principal and interest on the costs resulting from the acquisition and construction of sewage disposal facilities by municipalities (meaning counties, cities, towns, or village districts), for the control of water pollution, which have commenced construction of wastewater treatment facilities since July 1, 1990.

Amend the bill by replacing section 4 with the following:

4 Reduction of Appropriation; Appropriation to Department of Environmental Services.

I. PAU 03, 04, 03, 01, 04 Class 90 Grants in 1991, 312:1 shall be reduced by the amount of \$295,218 in fiscal year 1993.

II. In order to provide for continuing assistance to municipalities and an orderly implementation of the provisions of RSA 486:1, III, IV and V the following sums are hereby appropriated to the department of environmental services for fiscal year 1993 to 1991, 312:1 PAU 03, 04, 03, 01, 01 in order to fund position numbers 12111, 12113, 12129, 16789 and 18324. This appropriation is in addition to

any other funds appropriated to such PAU 03, 04, 03, 01, 04 provided for under paragraph I of this section.

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03, 04, 03, 01, 01

10 Personal services - permanent	\$220,095
28 Transfers to general services (rent)	9,095
60 Benefits (30 percent)	66,028
Total	<u>\$295,218</u>

Conferees on the Part of the Senate

Sen. Hough, Dist. 5
Sen. Blaisdell, Dist. 10
Sen. Dupont, Dist. 6

Conferees on the Part of the House

Rep. LaMott, Graf. 5
Rep. Schotanus, Sull. 1
Rep. Lewis, Merr. 5
Rep. R. Buckley, Hills. 42

AMENDED ANALYSIS

This bill requires the department of environmental services to determine the eligible costs of the North Conway Water Precinct sewer system project and assume 20 percent of such costs and the interest costs related to that 20 percent on the project bonds.

This bill also increases the amount of money available for water pollution control for the Winnepesaukee river basin and increases the bond authorization.

This bill also establishes a 20 percent state grant program for water pollution and supports the future funding of existing classified positions within the department of environmental services.

This bill also transfers funds within the department of environmental services from grants to certain aid for municipalities for waste water treatment plants.

Senator Hough moved to adopt the Committee of Conference Report.

Adopted.

HOUSE MESSAGE

The House of Representatives has refused to adopt the recommendation of the Committee of Conference to which was referred the following entitled Bill:

HB 1211, permitting public employees to file an unfair labor practice complaint after a certain time without exhausting administrative remedies.

and the Committee of Conference has been discharged.

The Speaker, on the part of the House, has appointed a new Committee of Conference, naming:

REPRESENTATIVES: E. A. Robinson, S. Jasper, R. Hawkins, M. Hawkinson.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled bills:

SB 62, relative to licensure of athletic trainers.

SB 304-FN-A, relative to business assistance and institutional arrangements.

SB 308, an act revising the business corporation act.

SB 321, an act repealing an exemption for town clerks relative to voter registration.

SB 324, an act establishing a commission on the family and permitting Jewish Rabbis who are not citizens of the United States to solemnize marriages.

SB 339, relative to regulatory reforms.

SB 343, relative to reconsideration of town meeting and school district meeting votes.

SB 362, an act redefining proprietary medicines to include nonprescription medicines and exempting non-pharmacy retail stores and outlets from classification as pharmacies for the purpose of RSA 318.

SB 375, an act allowing the division of parks and recreation to give rewards for information leading to the recovery of stolen division property.

SB 376-FN-A, relative to congregate services programs.

SB 393, relative to infrastructure development and making appropriations therefor.

SB 399, an act requiring rabies shots for cats.

SB 410, an act relative to AIDS.

SB 450, an act relative to capital formation.

SB 452-FN-L, an act redistricting certain district courts.

SB 472-FN, an act relative to the victims' assistance fund, the definition of obscene material, modifying sexual assault statutes, and continuing a study committee.

6050L

COMMITTEE OF CONFERENCE REPORT ON HB 1382

The committee of conference to which was referred House Bill 1382, An Act requiring all sellers of property to fully disclose information relative to private water supplies and septic and sewage disposal systems having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend RSA 482-A:3, IV as inserted by section 3 of the bill by replacing it with the following:

IV.(a) The replacement or repair of existing structures in or adjacent to any waters of the state which does not involve excavation, removal, filling, or dredging in any waters or of any bank, flat, marsh, or swamp is exempt from the provisions of this chapter.

(b) Nontidal drainage ditches, culverts, catch basins, and man-made detention ponds that have been legally constructed to collect and convey storm water and spring runoff, and that have been maintained so that wetlands vegetation has not become dominant, may be cleaned out when necessary to preserve their usefulness without a permit from the wetlands board. Such drainage facilities may be cleaned out by hand or machine, provided that the facility is neither enlarged nor extended into any area of wetlands board jurisdiction, dredged spoils are deposited in areas outside wetlands board jurisdiction, and wetlands or surface waters outside the limits of the constructed drainage facility are neither disturbed nor degraded.

Amend the bill by replacing section 6 with the following:

6 Certain Requirements Do Not Apply. Amend RSA 482-A:3, XI(b) to read as follows:

(b) Any person who wishes to engage in small motor mineral dredging shall obtain a permit from the wetlands board. **A permit application shall be filed directly with the wetlands board, and the procedural requirements of RSA 482-A:3, I and RSA 482-A:11, III shall not apply.** Any permit issued by the wetlands board under this paragraph shall expire at the end of the calendar year in which it is issued. Any person who engages in panning only shall not be required to obtain a permit but shall be subject to rules of the wetlands board. Panning shall include those activities associated with the manual search for minerals in a river bed without the use of motorized equipment.

7 Effective Date.

I. Sections 1-3 of this act shall take effect January 1, 1993.

II. The remainder of this act shall take effect 60 days after its passage.

*Conferees on the Part
of the Senate*

Sen. W. King, Dist. 2

Sen. Russman, Dist. 19

Sen. Currier, Dist. 7

*Conferees on the Part
of the House*

Rep. Dickinson, Carr. 2

Rep. Lewis, Merr. 5

Rep. Jankowski, Straf. 5

Rep. Wadsworth, Graf. 13

AMENDED ANALYSIS

This bill requires the seller of real property which includes a building to disclose information relative to the private water supply and the sewage disposal system.

The bill requires an on-site assessment to be included in any purchase and sale agreement for developed waterfront property using a septic disposal system.

This bill allows certain man-made containment areas to be cleaned out to allow drainage.

The bill exempts homeowners associations from registration requirements for owners of subdivided lands and condominiums.

The bill also exempts small motor mineral dredging permits from certain procedural requirements.

Senator W. King moved to adopt the Committee of Conference Report.

SENATOR NELSON: It says, "Amend the bill by replacing section 6 with the following:" What is this about? "Any person who wishes to engage in small motor mineral dredging:" What was 6 and how did this get on here? Who wanted it on here and what is it?

SENATOR W. KING: Senator Nelson, there was a typographical error in the bill that had to be corrected. Pardon me, it wasn't a typographical error. It was an error in terms of not saying where the permit had to be from. So the Wetlands Board was taking care of it, but nowhere in the bill did it say that you applied for your permit at the Wetlands Board.

SENATOR NELSON: Thank you, for that wonderful explanation.

Adopted.

6120L

COMMITTEE OF CONFERENCE REPORT ON HB 1396-FN

The committee of conference to which was referred House Bill 1396-FN, An Act authorizing municipalities to incur debt in the form of bonds guaranteed by the state of New Hampshire to assist municipalities, towns, cities, counties or districts to close landfills and to cleanup hazardous waste sites having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing section 3 with the following:

3 New Sections; Cleanup of Landfills, Hazardous Waste Sites and Solid Waste Sites. Amend RSA 149-M by inserting after section 24 the following new sections:

149-M:24-a Cleanup of Waste Sites; Priorities; Rulemaking.

I.(a) In addition to any other powers conferred upon cities, towns, districts and counties by this chapter or by RSA 147-B, cities, towns, districts and counties shall have the power to finance costs incurred for the closing and cleanup of landfills and other solid waste facilities and for the closing and cleanup of hazardous waste sites, excluding superfund sites, as provided in RSA 147-B. Considerations for determining priority for eligibility to incur debt in the form of bonds guaranteed by the state of New Hampshire for solid waste landfill closure and cleanup of hazardous waste sites shall be as follows, in order of highest to lowest priority:

- (1) Facility poses immediate risk to human health.
- (2) Facility poses potential risk to human health.
- (3) Facility with high level source of contamination identified.
- (4) Facility with surface water impact identified.
- (5) Facilities with approved closure plans ready for construction.
- (6) Facilities with closure plans that have been deemed complete.
- (7) Facilities for which hydro investigations have been completed in accordance with an approved workscope and which have obtained a groundwater management permit and are actively engaged in the final design of the closure system.
- (8) Facility shows groundwater impact with no alternate water supply in area.
- (9) Facility shows high concentration of groundwater contamination with alternate water supply in area.

(10) Facility shows low concentration of groundwater contamination with alternate water supply available.

(b) Project priority may be adjusted by the commissioner in consultation with the director of the division of waste management, when such adjustments are determined to be required to further protect public health and the environment.

II. If the amount of bonds authorized in a given year exceeds the annual bond limit, the department of environmental services shall recommend allocation of the bond guarantees based on the priority ranking system under paragraph I. The commissioner of environmental services shall adopt rules, pursuant to RSA 541-a, relative to the administration of this section.

149-M:24-b State Guarantee.

I. In view of the public benefits resulting from the proper closing of landfills and other solid waste facilities and for the closing and cleanup of qualifying hazardous waste sites, the governor and council are authorized in the name of the state of New Hampshire to guarantee unconditionally, but at no time in excess of the total aggregate sum for the entire state of \$30,000,000, the payment of all or any portion, as they may find to be in the public interest, of the principal of and interest on any bonds or notes issued by any city, town, district or county for the closing and cleanup of any landfill or any other solid waste facility or the closing and cleanup of any hazardous waste site, excluding superfund sites, and the full faith and credit of the state are pledged for any such guarantee. The outstanding amount of principal and interest on such bonds and notes, the payment of which has been guaranteed by the state under the provisions of this section, shall at no time exceed the amount of \$30,000,000 as follows:

(a) Effective upon passage	\$15,000,000
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(b) For the biennium ending	
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June 30, 1995, an additional	\$15,000,000
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II. The state's guarantee shall be endorsed on such bonds or notes by the state treasurer; and all notes or bonds issued with the state guarantee shall be sold at public sealed bidding to the highest bidder. Any and all such bids may be rejected and a sale may be negotiated with the highest bidder. In the event of default in payment of any such notes or bonds, the state may recover any losses suffered by it in an action against a municipality or county, as provided in RSA 530, provided, further, that in accordance with RSA 35-A:29, the foregoing requirement for public sealed bidding shall not be applicable to any bonds or notes or both so guaranteed which are sold to the New Hampshire municipal bond bank, and any bonds

or notes or both so guaranteed may be sold to the New Hampshire municipal bond bank at private sale in accordance with the provisions of RSA 35-A.

*Conferees on the Part
of the Senate*

Sen. W. King, Dist. 2
Sen. Shaheen, Dist. 21
Sen. Fraser, Dist. 4

*Conferees on the Part
of the House*

Rep. B. Gage, Rock. 20
Rep. Porter, Sull. 9
Rep. C. Brown, Graf. 13
Rep. Chambers, Graf. 12

AMENDED ANALYSIS

This bill authorizes the New Hampshire municipal bond bank to sell bonds guaranteed by the state of New Hampshire to assist municipal, town, city, county or district financing of the closing of landfills and the cleanup of hazardous waste sites and solid waste sites. The bonds would total \$30,000,000, \$15,000,000 appropriated upon passage of this bill and an additional \$15,000,000 for the biennium ending June 30, 1995. This bill excludes municipalities from the debt limit under RSA 33 if borrowing for the purposes of this bill. The bill also establishes priorities for the closure and cleanup of sites.

Senator W. King moved to refuse to adopt the Committee of Conference report.

Adopted.

Senator W. King moved to discharge the committee and establish a new committee.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: W. King, Shaheen, Fraser.

6138L

COMMITTEE OF CONFERENCE REPORT ON HB 1399-FN

The committee of conference to which was referred House Bill 1399-FN, An Act changing the name of the board of examiners of psychologists to the board of examiners of psychology and mental health practice, expanding such board, and certifying mental health counselors.

Having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend RSA 330-A:18 as inserted by section 10 of the bill by inserting after paragraph II the following new paragraph:

III. A patient who has not had a basic physical examination within 6 months of the initial visit shall be required to have a basic physical examination within the first 4 to 6 months of therapy, and shall continue to have basic physical examination every 12 months while in therapy. After completion of a basic physical examination that has indicated a physiological cause for the signs and symptoms that caused the patient to seek psychotherapy, the mental health practitioner shall consult quarterly with the consulting physician regarding the patient's treatment plan and progress and shall request any pertinent medical input from the physician regarding the patient.

Amend RSA 330-A:23, III as inserted by section 12 of the bill by replacing it with the following:

III. "Psychotherapist" means a psychologist, certified clinical social worker, [or] certified pastoral counselor, certified mental health counselor, or certified marriage and family therapist who performs or purports to perform psychotherapy. This definition shall apply to advanced registered nurse practitioners licensed under RSA 326-B:10 as psychiatric nurse practitioners.

*Conferees on the Part
of the Senate*

Sen. Currier, Dist. 7
Sen. Fraser, Dist. 4
Sen. Pressly, Dist. 12

*Conferees on the Part
of the House*

Rep. Ward, Graf. 1
Rep. Emerton, Hills. 6
Rep. Goulet, Hills. 1
Rep. Gosselin, Hills. 43

Senator Fraser moved to adopt the Committee of Conference Report.

SENATOR NELSON: I am sorry that I am the only one asking all of these questions, but you insisted that we go through each one individually.

SENATOR DUPONT (In the Chair): No, problem, Senator Nelson. That is what we are here for.

SENATOR NELSON: I hope that my colleagues here appreciate it.

SENATOR BLAISDELL: At seven o'clock tonight, Mary.

SENATOR NELSON: Junie, you wanted me to go through all of this.

SENATOR DUPONT (In the Chair): Senator, I am glad that you are paying attention.

SENATOR NELSON: I apologize, but thank you. I want to make mention of this particular piece of legislation that you all ought to see. If I ever saw a "get the consumer", this is it. They want you, get this, a patient who has not had a physical examination within six months of the initial visit will be required to have a physical within four to six months of the therapy and you will continue to have another physical every 12 months. You know the cost of a physical examination? Talk about taking government, deep down and dirty, into peoples lives, I never saw anything like it in my life. I cannot imagine anybody requiring a citizen of the state of New Hampshire to have a physical exam, unless I just don't have all of the information in this short little Committee of Conference report. This is just . . . you are only talking about seeing a mental health counselor here, or a mental health practitioner if you are in . . . would you all just take a look at this amendment. Thank you, Mr. President.

SENATOR MCLANE: Senator Nelson, I am trying to think of the best way to sort of explain what to me is a very good consumer point. First of all, I guess I would say, do you know how much it costs to go get mental health counseling an hour?

SENATOR NELSON: I think . . . well, not having been there, there is a sliding scale usually and they allow you to pay according to your means in many instances or you have health insurance that covers it. So you could probably pay as little as \$1. Depending upon the credentials and the experience of the counselor, I suppose you could pay up to as much as you would pay an attorney, \$100 an hour.

SENATOR MCLANE: Would you be surprised to know that it could amount to several thousand dollars over a year for good mental health counseling?

SENATOR NELSON: No I suppose depending upon the condition that one has, it could cost thousands of dollars.

SENATOR MCLANE: Would you believe that it would be unfair for a person who is suffering from a physical disease and perhaps I could use the example of Alzheimers or a reaction to medication that would give someone, sort of a schizophrenic personality, would you feel that it was fair to this person to go to an expensive counseling doctor for many, many months, when a physical could show that it was a physical problem instead of a mental problem that this person was suffering from?

SENATOR NELSON: If we are talking about the credentials and credibility and effectiveness of a counselor, then we should be passing laws that are going to make sure that they are doing the appropriate job, rather than passing laws that indicate people in this

situation should be forced to have a physical examination. Not only do we tell them four to six months, we then insist for every 12 months they must get a physical. We need to take a second look or a first look, at the credentials of the counselor and put them before a review board or a medical ethics board and get them out.

SENATOR MCLANE: Would you be surprised to know that very often mental disease has a physiological origin and that a well trained mental health person would be asking the person to have a physical?

SENATOR NELSON: If a person is being treated for a medical condition, it is within the purview of the treating physician to recommend and ask that individual for a physical or have them have a physical, but to put into law that people have to have a physical is beyond my comprehension. We are shifting responsibility onto the patient and their pocketbook instead of to the attending physician or to the counselor or the therapist of the psychiatrist or psychotherapist. In my humble opinion knows best?

Division requested.

Recess.

Out of recess.

Yeas 10

Nays 9

Motion is adopted.

Senator Russman (Rule #42).

Senators Heath and Nelson in opposition to HB 1399.

6140L

COMMITTEE OF CONFERENCE REPORT ON HB 1400-FN

The committee of conference to which was referred House Bill 1400-FN, An Act relative to the comprehensive shoreland protection act having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing section 6 with the following:

6 Definition of Public Boundary Line. Amend RSA 483-B:4, XVII(c) to read as follows:

(c) For coastal waters, the [limit of the highest observable tide, as determined by the wetlands board] **mean high tide established by the U.S. Coastal and Geodetic Survey.**

(d) For rivers, the ordinary high water mark.

Amend the bill by replacing section 12 with the following:

12 Minimum Shoreland Protection Standards. Amend RSA 483-B:9, I to read as follows:

I. The standards in this section are designed to minimize shoreland disturbance so as to protect the public waters, while still accommodating reasonable levels of development in the protected shoreland. **Development outside the protected shoreland shall conform to local zoning and local ordinances and shall not be subject to standards established in this chapter.**

Amend RSA 483-B:9, IV-c and IV-d as inserted by section 14 of the bill by replacing them with the following:

IV-c. An existing solid waste facility which is located within 250 feet of the public boundary line of protected waters under this chapter may continue to operate under an existing permit, provided it does not cause degradation to an area in excess of that area under permit.

IV-d. No solid waste facility shall place solid waste within 250 feet of the public boundary line of protected waters under this chapter except as expressly permitted under RSA 483-B:9, IV-c. However, any solid waste facility may be allowed, subject to permitting conditions under RSA 149-M:10, to erect accessory structures and conduct other activities consistent with the operation of the facility within 250 feet of the public boundary line of protected waters under this chapter, such as filling, grading and installing monitoring wells and other drainage structures as is consistent with its solid waste permit as issued by the department of environmental services. Under no circumstances shall the toe of any slope encroach within 150 feet of the public boundary line.

Amend the bill by replacing section 15 with the following:

15 Minimum Shoreland Protection Standards; Natural Woodland Buffer. Amend RSA 483-B:9, V(a)(2)(A) to read as follows:

(A) Not more than a maximum of 50 percent of the basal area of trees, and a maximum of 50 percent of the total number of saplings shall be removed for any purpose in a 20-year period. A healthy, well-distributed stand of trees, saplings, shrubs and ground covers and their living, undamaged root systems shall be left in place. **Replacement planting with native or naturalized species may be permitted to maintain the 50 percent level.**

Amend the bill by replacing section 22 with the following:

22 Definition of Protected Shoreland. Amend RSA 483-B:4, XV to read as follows:

XV. "Protected shoreland" means, **for natural, fresh water**

bodies without artificial impoundments, for artificially impounded fresh water bodies, for coastal waters and rivers, all land located within 250 feet of the public boundary line of public waters.

Amend the bill by replacing section 26 with the following:

26 Shoreland Exemptions. Amend RSA 483-B:19, II to read as follows:

II. The provisions of this chapter shall not apply to:

(a) Any applicant whose land is in any municipality which adopts the model ordinance prepared by the office of state planning under paragraph I and provided to the commissioner, or a more stringent version of such model ordinance.

(b) Rivers, or segments thereof, designated by the general court and approved for management and protection under RSA 483 prior to January 1, 1993.

Amend the bill by replacing all after section 26 with the following:

27 General Court Review of Rivers Exemption. In the event that the local river management advisory committees do not fulfill their responsibilities prescribed in RSA 483:8-a, III(c) or that the cities and towns along designated rivers or segments thereof do not adopt the proposals made by their local river management advisory committees, the house and senate shall re-examine the exemption provided in RSA 483-B:19, II(b) and propose minimum standards as defined by this act.

28 Repeal. The following are repealed:

I. RSA 483-B:9, V(a)(2)(B), relative to a forest inventory plan.

II. RSA 483-B:13, relative to a public hearing and notice to abutter.

29 Effective Date. This act shall take effect January 1, 1993.

*Conferees on the Part
of the Senate*

Sen. W. King, Dist. 2

Sen. Russman, Dist. 19

Sen. McLane, Dist. 15

*Conferees on the Part
of the House*

Rep. Dickinson, Carr. 2

Rep. L. Smith, Hills. 21

Rep. Maviglio, Belk. 1

Rep. Lewis, Merr. 5

AMENDED ANALYSIS

This bill makes technical changes to the shoreland protection act, as well as:

(a) Affording municipalities equitable relief relative to violations of the shoreland act.

(b) Amending rulemaking authority.

(c) Defining ordinary high water mark.

(d) Exempting certain shoreline designated for rivers management and protection by the legislature.

Senator W. King moved to adopt the Committee of Conference Report.

Adopted.

6064L

COMMITTEE OF CONFERENCE REPORT ON HB 1430

The committee of conference to which was referred House Bill 1430, An Act relative to the disclosure of certain information and refunds relating to musical performances having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House each pass the bill as amended by the Senate.

*Conferees on the Part
of the Senate*

Sen. Bass, Dist. 11

Sen. Roberge, Dist. 9

Sen. Nelson, Dist. 13

*Conferees on the Part
of the House*

Rep. Gross, Merr. 16

Rep. Drolet, Hills. 8

Rep. Guay, Coos 7

Rep. Keane, Hills. 37

Senator Bass moved to adopt the Committee of Conference Report.

Adopted.

6177L

COMMITTEE OF CONFERENCE REPORT ON HB 1439

The committee of conference to which was referred House Bill 1439, An Act instituting a motor vehicle emissions inspection program and requiring a study of diesel and other vehicles having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and

That the Senate recede from its position in adopting its amendment to the bill, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the bill by replacing section 4 with the following:

4 Diesel and Other Exempted Vehicles Study. The house environment and agriculture and the senate environment committees shall study the impact on human health and the environment of certain

motor vehicles and their emissions which are currently or proposed to be exempted from certain motor vehicle emissions and air quality laws, regulations, or standards, including but not limited to diesel, electric, compressed natural gas, or propane powered vehicles; vehicles of model year 1967 and older; vehicles over 8,500 pounds; and motorcycles. The committees shall make a recommendation on their findings, including any proposed legislation, by November 1, 1992.

*Conferees on the Part
of the Senate*

Sen. W. King, Dist. 2
Sen. Dupont, Dist. 6
Sen. Fraser, Dist. 4

*Conferees on the Part
of the House*

Rep. B. McCann, Hills. 31
Rep. Bradley, Carr. 6
Rep. Hanselman, Hills. 17
Rep. A. Merrill, Straf. 4

Senator W. King moved to adopt the Committee of Conference Report.

Adopted.

6129L

COMMITTEE OF CONFERENCE REPORT ON HB 1455-FN

The committee of conference to which was referred House Bill 1455-FN, An Act relative to motor vehicle laws, including suspension of wholesale motor vehicle dealer's registration, hanging disability placards, and other technical changes having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing all after section 11 with the following:

12 New Section; Nonresidency Automobile Insurance. Amend RSA 412 by inserting after section 2-c the following new section:

412:2-d Prohibition on Nonresident Automobile Insurance. Notwithstanding any other provision of law to the contrary, no individual shall be provided coverage under a policy of automobile insurance, as defined in RSA 417-A, if such individual is determined by the insurer to have falsely attested to the statement required in RSA 417-A:3-b at the time such policy was issued or renewed. Payment shall be made by the insurer for all valid bodily injury and property damage liability claims and all valid uninsured motorist claims by individuals other than the applicant for insurance who signed the statement required by RSA 417-A:3-b arising under such policy; however, the insurer shall be legally entitled to reimbursement by the policyholder for all such paid claims.

13 Rates for Motor Vehicle Insurance. RSA 412:19 and RSA 412:19-a are repealed and reenacted to read as follows:

412:19 Calculation of Rates. Claims paid by an insurer under a policy of automobile insurance, as defined in RSA 417-A, issued to an individual determined by the insurer to have falsely attested to the statement of residency required in RSA 417-A:3-b shall not be included in the calculation of premium rates filed with the commissioner for approval, if such claims may lawfully and feasibly be assigned to the state where the claims should have been classified. Insurers shall be responsible for maintaining appropriate records to evidence compliance with this section.

412:19-a Rulemaking. The commissioner shall adopt rules, under RSA 541-A, relative to defining "resident" for the purposes of this chapter and RSA 417-A, including any criteria necessary for determining residency in the state.

14 Definition of Automobile Insurance Policy. RSA 417-A:1, I is repealed and reenacted to read as follows:

I. "Policy of automobile insurance" means a policy delivered or issued for delivery in this state insuring a person as named insured or one or more related individuals resident of the same household, and under which the insured vehicles therein designated includes a private passenger automobile as defined in rules adopted by the commissioner pursuant to RSA 541-A.

15 New Section; Statement of Residency. Amend RSA 417-A by inserting after section 3-a the following new section:

417-A:3-b Statement of Residency.

I. All applicants for coverage under new or renewal policies of automobile insurance shall sign a statement of residency which the insurance company shall provide as part of the application for such insurance. The statement of residency shall be as follows:

I, the undersigned, hereby attest that I am a resident of the state of New Hampshire. I understand that if I am not a resident of the state of New Hampshire, I am subject to prosecution, imprisonment of up to one year, and a fine of \$2,000.

Signed: _____

Date: _____

Copies to:

Insurance Department

Applicant

II. The statement prescribed in paragraph I shall also contain the definition of "resident" adopted by the commissioner pursuant to RSA 412:19-a.

III. A person who falsely attests to the statement of residency prescribed in paragraph I shall be subject to prosecution for unsworn falsification under RSA 641:3, and, upon conviction, to imposi-

tion of the maximum fine without suspension or diminution, along with other penalties authorized by law.

IV. Any nonresident who meets the requirements for nonresident registration under RSA 261:46 shall be exempt from the provisions of paragraph I.

16 Motor Vehicle Warranties; Motorcycles Added. Amend RSA 357-D:3, V to read as follows:

V. If, after a reasonable number of attempts, the manufacturer, its agent or authorized dealer or its delegate is unable to conform the motor vehicle to any express warranty by repairing or correcting any defect or condition covered by the warranty which substantially impairs the use, market value, or safety of the motor vehicle to the consumer, the manufacturer shall, at the option of the consumer within 30 days of the effective date of the board's order, replace the motor vehicle with a new motor vehicle from the same manufacturer, if available, of comparable worth to the same make and model with all options and accessories with appropriate adjustments being allowed for any model year differences or shall accept return of the vehicle from the consumer and refund to the consumer the full purchase price or to the lessee, in the case of leased vehicles, as provided in paragraph IX. In those instances in which a refund is tendered, the manufacturer shall refund to the consumer the full purchase price as indicated in the purchase contract and all credits and allowances for any trade-in or down payment, license fees, finance charges, credit charges, registration fees, and any similar charges and incidental and consequential damages or, in the case of leased vehicles, as provided in paragraph IX. Refunds shall be made to the consumer and lienholder, if any, as their interests may appear, or to the motor vehicle lessor and lessee as provided in paragraph IX. A reasonable allowance for use shall be that amount directly attributable to use by the consumer prior to the first repair attempt and shall be calculated by multiplying the full purchase price of the vehicle by a fraction having as its denominator 100,000, **or for a motorcycle with an engine size of 250 cubic centimeters or smaller 20,000, or for a motorcycle with an engine size greater than 250 cubic centimeters 40,000**, and having as its numerator the number of miles that the vehicle traveled prior to the first attempt at repairing the vehicle.

17 Repeal. RSA 261:58, II, relative to motorcycles used for off highway recreational purposes, is repealed.

18 Effective Date.

I. Section 10 of this act shall take effect July 1, 1992.

II. RSA 412:19-a as inserted by section 12 of this act shall take effect upon its passage.

III. Sections 11, 13-14 and RSA 412:19 as inserted by section 12 of this act shall take effect January 1, 1993 and shall apply to policies of automobile insurance issued on or after that date.

IV. The remainder of this act shall take effect January 1, 1993.

Amend the bill by deleting section 1 and renumbering the original sections 2-18 to read as 1-17, respectively.

*Conferees on the Part
of the Senate*

Sen. Russman, Dist. 19

Sen. Oleson, Dist. 1

Sen. Dupont, Dist. 6

*Conferees on the Part
of the House*

Rep. Moore, Hills. 5

Rep. Burling, Sull. 1

Rep. Baker, Hills. 19

Rep. Katsakiores, Rock. 7

AMENDED ANALYSIS

This bill establishes a disability hanging placard for motor vehicles and makes other technical changes relative to motor vehicle laws.

This bill also prohibits the issuance of a policy of automobile insurance to any individual who falsely attests to a residency statement signed at the time of automobile insurance policy application.

This bill is a request of the department of safety.

Senator Russman moved to adopt the Committee of Conference Report.

SENATOR DISNARD: Senator Russman, on page two, section 13, "Calculations of Rates by the insurer", what does that mean?

SENATOR RUSSMAN: I don't have it right in front of me at the moment. If we could take a slight recess, I would be happy to look it up. Okay, I see what you are talking about. The whole idea here was to protect people that, for example, if they had their car registered in your town, even though they didn't live in your town, they then get into an accident in Massachusetts, that next year when the rates get set, that doesn't get hit. People in your town, your constituents, don't get hurt by it. We didn't want that figured into the rates base.

SENATOR DISNARD: Thank you, when I saw rates and insured . . .

Adopted.

6098L

COMMITTEE OF CONFERENCE REPORT ON HB 1468-FN-LOCAL

The committee of conference to which was referred House Bill 1468-FN-LOCAL, An Act relative to special education catastrophic aid having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing all after section 4 with the following:

5 Estimated State Average Cost Per Pupil. Amend RSA 186-C:19-b, II to read as follows:

II. The school district liability for expenses for special education or for special education and educationally related services for an educationally disabled child in placement for which the division for children and youth services has financial responsibility shall be limited to 3 times the **estimated** state average [cost] **expenditure** per pupil, [as determined by the state board of education for the preceding school year] **for the school year preceding the year of distribution**. The liability of a school district under this section shall be prorated if the placement is for less than a full school year and the district shall be liable for only the prorated amount. This section shall not limit a school district's financial liability for children who receive special education or special education and educationally related services in a public school or program identified in RSA 186-C:10.

(a) Any costs of special education or special education and educationally related services in excess of 3 times the **estimated** state average [cost] **expenditure** per pupil **for the school year preceding the year of distribution** shall be the liability of the department of education. Costs for which the department of education is liable under this section shall be paid to education service providers by the department of education. The department of education shall develop a mechanism for allocating the funds appropriated for the purposes of this section.

(b) The division for children and youth services shall be liable for all court-ordered costs pursuant to RSA 169-B:40, 169-C:27, and 169-D:29 other than for special education or special education and educationally related services.

6 Effective Date.

I. RSA 186-C:18, III(a) as inserted by section 1 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect on July 1, 1992.

*Conferees on the Part
of the Senate*

Sen. Hough, Dist. 5
Sen. Disnard, Dist. 8
Sen. Roberge, Dist. 9

*Conferees on the Part
of the House*

Rep. Larson, Graf. 9
Rep. Skinner, Rock. 21
Rep. W. Riley, Hills. 44
Rep. Kurk, Hills. 3

AMENDED ANALYSIS

This bill allows payments to school districts using estimated expenditures of the school districts.

The school district will be liable for 3-1/2 times the estimated state average expenditure per pupil for the school year preceding the year of distribution plus 20 percent of the additional cost up to 10 times the estimated state average expenditure per pupil. The department of education will be liable for 80 percent of the cost above 3-1/2 times the estimated expenditure per pupil for the school year preceding the year of distribution up to 10 times the estimated state average expenditure per pupil. The department will be responsible for all costs in excess of 10 times the estimated state average expenditure per pupil.

The current law provides payments to school districts by calculating the state average expenditure per pupil for the school year preceding the year of distribution.

The bill deletes the state minimum appropriation to districts for special education catastrophic cost increases.

This bill requires any individual education plan which includes a residential placement, and for which total education costs exceed 10 times the estimated state average expenditure per pupil, to be approved by the special education bureau of the department of education.

This bill requires a school district to raise and appropriate funds reflecting the total cost of meeting catastrophic special education student costs and to issue reimbursement anticipation notes in anticipation of reimbursement from the state.

This bill limits school district liability for expenses of special education for which the division of children and youth services has financial responsibility to 3 times the estimated state average cost per pupil for the school year preceding the year of distribution. Current law limits such liability to 3 times the state average cost per pupil.

This bill also requires a school district to raise and appropriate funds reflecting the total cost of meeting catastrophic special education student costs and to issue reimbursement anticipation notes in

anticipation of reimbursement from the state. The department of education shall be liable for the cost of borrowing such funds.

Senator Hough moved to adopt the Committee of Conference Report.

Adopted.

6102L

COMMITTEE OF CONFERENCE REPORT ON HB 1478-FN-LOCAL

The committee of conference to which was referred House Bill 1478-FN-LOCAL, An Act restructuring the Pease development authority having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; Purpose and Findings. Amend RSA 12-G:1 by inserting after paragraph III the following new paragraph:

IV. The general court finds that the hospital on the former Pease Air Force Base might be suited to provide health care services. The general court further finds that the health services planning and review board, under the provisions of RSA 151-C, is responsible for determining how the health care needs of New Hampshire and the need to redevelop former Pease Air Force Base may be economically met.

2 New Paragraph; Duties of Pease Development Authority. Amend RSA 12-G:6 by inserting after paragraph II the following new paragraph:

III. The Pease development authority is directed to request that the health services planning and review board conduct a proceeding to determine whether there are any health care needs in New Hampshire that can be economically served by reuse of the former Pease Air Force base hospital.

(a) The health services planning and review board shall complete this proceeding within 60 days after receiving the request.

(b) After completion of the proceeding, if the health care planning and review board has determined that there are any health care needs that can be so served, then the board shall so inform the Pease development authority.

(c) If the Pease development authority wishes to proceed with redevelopment of the former base hospital in accordance with the board's determination of need, the authority shall make available to all interested parties the terms and conditions on which it would permit the redevelopment to proceed, and shall transmit the terms and conditions to the health services planning and review board.

(d) The health services planning and review board shall issue a request for proposals to meet the identified need or needs, incorporating the terms and conditions received from the Pease development authority.

(e) The health services planning and review board shall consider and decide upon responses to the request for proposals in accordance with RSA 151-C.

(f) The Pease development authority shall have final authority to decide whether to contract with the applicant identified in the board's decision.

(g) In complying with the time schedules of this section, the health services planning and review board shall be permitted a 30-day extension period, in accordance with RSA 151-C:8, VIII, for subparagraphs (a), (d), and (e) above.

3 Effective Date. This act shall take effect upon its passage.

*Conferees on the Part
of the Senate*

Sen. Dupont, Dist. 6
Sen. Cohen, Dist. 24
Sen. Fraser, Dist. 4

*Conferees on the Part
of the House*

Rep. R. Foster, Carr. 4
Rep. Holmes, Merr. 13
Rep. Ziegler, Belk. 6
Rep. Syracuse, Rock. 26

AMENDED ANALYSIS

This bill establishes certain procedures which may allow for the use of the hospital at former Pease Air Force Base as a health care facility. The health services planning and review board is to determine if the hospital could economically serve New Hampshire health care needs. If the board so determines, the Pease development authority may transmit its required terms and conditions for redevelopment to the board. The board then issues a request for proposals, incorporating the authority's terms and conditions. After the board makes a decision on the proposals, the authority makes the final decision on whether to contract with the applicant approved by the board.

Senator Cohen moved to adopt the Committee of Conference Report.

Adopted.

SENATOR COHEN: A lot of questions have been raised about just exactly what this bill does right now. I just wanted to clear that up. It directs the Certificate of Need Board to determine whether there are any health care needs that can be served by economically using the Pease Hospital. The issue here is not just whether the CON finds medical needs in New Hampshire, it is whether the facility at Pease can be used economically to meet medical needs in New Hampshire. It combines the need to use Pease as required by RSA 12-G with the need to meet medical needs as required by RSA 151-C. The key issue for the certificate of Need Board is, can these needs be combined on an economically sound basis and this bill address any and all questions. It is a compromise of a compromise of a compromise and it should serve both parties, Pease Development Authority as well as the certificate of need process. They are certainly involved and this was hammered out long and hard and agreed to by all parties in this.

SENATOR PODLES: Senator Cohen, does this mean that the hospital is going to be able to bypass CON?

SENATOR COHEN: Absolutely not. It will go through the CON process and the CON can look at the process and see if there are any needs and determine that there aren't any needs. It can say no to any and all uses there. It simply expedites it, expedites the process, but the certificate of need process is very much involved in this. This is in no way any circumvention of the CON process.

SENATOR PODLES: Thank you.

6117L

COMMITTEE OF CONFERENCE REPORT ON HB 1491-FN-LOCAL

The committee of conference to which was referred House Bill 1491-FN-LOCAL, An Act requiring professional fundraisers for police, law enforcement and firefighters' associations to register with and be regulated by the department of justice, increasing the amount of the registration fee, solicitation fee and bond, and making technical amendments to the registration law having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and

That the Senate recede from its position in adopting its amendment to the bill, and

That the Senate and House each pass the bill as amended by the House.

*Conferees on the Part
of the Senate*

Sen. Colantuono, Dist. 14

Sen. Russman, Dist. 19

Sen. Hollingworth, Dist. 23

*Conferees on the Part
of the House*

Rep. Drolet, Hills. 8

Rep. Hager, Merr. 21

Rep. Lown, Hills. 9

Rep. Knowles, Straf. 7

Senator Colantuono moved to adopt the Committee of Conference Report.

Adopted.

6143L

COMMITTEE OF CONFERENCE REPORT ON HB 1493-A

The committee of conference to which was referred House Bill 1493-A, An Act relative to extending the east-west highway study deadline having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing sections 1 and 2 with the following:

1 East-West Highway Study; Appropriation Increased. Amend 1986, 203:8, as amended by 1988, 266:2 and 1990, 244:2 to read as follows:

203:8 Appropriation. The sum of [\$1,000,000] **\$1,500,000, \$400,000 of which shall be federal funds;** is hereby appropriated to the department of transportation for the biennium ending June 30, 1987, for the purpose of an environmental impact study and preliminary design plans for [a 4-lane] **an** east-west highway from the Concord area to the tri-city area of Rochester, Dover and Somersworth. The New Hampshire general court directs the department of transportation to study improved highway access from central New Hampshire to the tri-city area of Dover, Rochester and Somersworth. **One of the primary improved highway access routes to be covered by the study shall include the feasibility of a route north of Jenness Pond and Bow Lake.** This shall be a nonlapsing appropriation and in addition to any other appropriation for the department of transportation for the biennium.

2 East-West Highway Study; Bonding Authority Increased. Amend 1986, 203:23, II as amended by 1988, 266:4 to read as follows:

II. To provide funds for the appropriations in section 8 and 8-b of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding [\$3,500,000] **\$3,600,000** and for said

purpose may issue notes and bonds in the name and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A. The funds derived from the notes and bonds issued pursuant to this paragraph which exceed [\$1,000,000] **\$1,100,000** shall be used to repay the highway surplus account for the funds authorized by the fiscal committee and governor and council pursuant to 1986, 203:8-b.

*Conferees on the Part
of the Senate*

Sen. Nelson, Dist. 13
Sen. Shaheen, Dist. 21
Sen. Hough, Dist. 5

*Conferees on the Part
of the House*

Rep. Marsh, Coos 1
Rep. Frechette, Straf. 8
Rep. Hager, Merr. 21
Rep. R. Johnson, Rock. 1

AMENDED ANALYSIS

This bill increases the appropriation to the east-west highway study and extends the study deadline.

This bill also requires the department of transportation to study as one of the primary east-west routes a route north of Jenness Pond and Bow Lake.

Senator Nelson moved to adopt the Committee of Conference Report.

Adopted.

6080L

COMMITTEE OF CONFERENCE REPORT ON HB 1495-FN

The committee of conference to which was referred House Bill 1495-FN, An Act establishing a committee to study the management of New Hampshire tidal waters and related issues having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and

That the Senate recede from its position in adopting its amendment to the bill, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the bill by replacing all after the enacting clause with the following:

1 Committee Established. There is hereby established a committee to conduct a comprehensive study of all aspects of the management of New Hampshire tidal waters, commercial fishing, marine industry, and recreational boating including, but not limited to, fuel sold to vessels at state piers, fuel costs, pier usage, parking, harbor masters, moorings, and fees and concessions at state piers.

2 Membership.

I. Two members of the senate, representing the tidal water areas of the state, appointed by the senate president.

II. Two members of the house of representatives, representing the tidal water areas of the state, appointed by the speaker of the house, who shall call the first meeting.

III. The chairman of the New Hampshire state port authority board, or his designee.

IV. The director of the division of parks and recreation, or designee.

V. The commissioner of safety, or designee.

VI. The coastal commissioner of the fish and game commission, or designee.

VII. One member from the Yankee Fisherman's Cooperative, appointed by such cooperative.

VIII. One member from the Portsmouth Fisherman's Cooperative, appointed by such cooperative.

IX. One member from the Interstate Passenger Boat Association, appointed by such association.

X. One public member from the recreational industry, appointed by the governor.

XI. One lobster fisherman, appointed by the New Hampshire Commercial Fisherman's Association.

3 Meetings; Chair; Public Hearings. The first meeting of the committee shall be called no later than July 15, 1992. The chair of the committee shall be chosen by the members at the first meeting. The committee may hold public hearings in the seacoast area as it deems necessary. All meetings of the committee shall be held in the seacoast area, the specific area to be determined by vote of the committee.

4 Report. The committee shall report its findings and recommendations, including any proposed legislation, to the president of the senate, the speaker of the house, and the governor on or before November 1, 1992.

5 Compensation. The committee members shall serve without compensation except that legislative members shall receive mileage at the legislative rate.

6 Effective Date. This act shall take effect upon its passage.

Conferees on the Part of the Senate

Sen. W. King, Dist. 2

Sen. Russman, Dist. 19

Sen. Hollingworth, Dist. 23

Conferees on the Part of the House

Rep. M. A. Lewis, Merr. 5

Rep. Nehring, Straf. 1

Rep. Jankowski, Straf. 5

Rep. Felch, Rock. 14

Senator W. King moved to adopt the Committee of Conference Report.

Adopted.

HOUSE MESSAGE

The House has voted to discharge the Committee of Conference to which was referred the following entitled Bill:

SB 428-FN, designating segments of the Connecticut River for the rivers management program and allowing existing hydroelectric facilities to maintain operations.

and the Committee of Conference has been discharged.

The Speaker, on the part of the House of Representatives, has appointed a new Committee of Conference, naming:

REPRESENTATIVES: H. Dickinson, M. Schotanus, C. F. Buckley, S. Maviglio.

SENATE ACCEDES TO REQUEST

The Senate accedes to the request of the House of Representatives for a new Committee of Conference on the following entitled Bill:

SB 428-FN, designating segments of the Connecticut River for the rivers management program and allowing existing hydroelectric facilities to maintain operations.

Senator McLane moved to accede and request a new Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed a new Committee of Conference, naming:

SENATORS: Russman, McLane, Fraser.

SENATOR HEATH: Does that mean that Senator Oleson has been removed from that committee?

SENATOR DUPONT (In the Chair): Yes, it does, Senator.

SENATOR HEATH: Could I ask why that is, since he labored hard and long and has a very strong interest in that for his district?

SENATOR DUPONT (In the Chair): Senator, you would have to speak to Senator Oleson. Let me just answer you by saying, that I have discussed it with Senator Oleson, so he is aware that he is removed from the committee.

SENATOR HEATH: Was Senator Oleson in agreement that he would be removed?

SENATOR DUPONT (In the Chair): Yes, he was.

6040L

COMMITTEE OF CONFERENCE REPORT ON SB 62-FN

The committee of conference to which was referred Senate Bill 62-FN, An Act relative to licensure of athletic trainers having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the bill by replacing section 1 with the following:

1 Legislation Relative to Athletic Trainers and the Board of Registration in Medicine. The house executive departments and administration and the senate executive departments committees shall study, review and make recommendations in the form of legislation to be introduced in the 1993 legislative session, regarding registration, certification and licensure for the profession of athletic trainers. In addition, the committees may study the registration, certification and licensure procedures of any boards under or administratively attached to the board of registration in medicine and may consider the establishment of an allied health care board.

Conferees on the Part of the Senate

Sen. Currier, Dist. 7
Sen. Fraser, Dist. 4
Sen. Blaisdell, Dist. 10

Conferees on the Part of the House

Rep. Ward, Graf. 1
Rep. Goulet, Hills. 11
Rep. Gosselin, Hills. 43
Rep. Dowd, Rock. 7

AMENDED ANALYSIS

This bill requires the house executive departments and administration and the senate executive departments committees to study, review and make recommendations in the form of legislation to be introduced in the 1993 legislative session, regarding registration, certification and licensure for the profession of athletic trainers. In addition, the committees may study the registration, certification and licensure procedures of any boards under or administratively attached to the board of registration in medicine and may consider the establishment of an allied health care board.

Senator Fraser moved to adopt the Committee of Conference Report.

Adopted.

6149L**COMMITTEE OF CONFERENCE REPORT ON SB 304-FN-A**

The committee of conference to which was referred Senate Bill 304-FN-A, An Act relative to business assistance and institutional arrangements having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the bill by replacing sections 2 and 3 with the following:

2 Industrial Research. The industrial research center at the University of New Hampshire intends to enter into a research partnership with Dartmouth College which shall include, but not be limited to, bio-tech research and development.

3 Funding. In accordance with the procedures of RSA 12-A:2-e, section 2 of this act shall be funded from the New Hampshire economic development fund established in RSA 12-A:2-e.

Amend the bill by deleting sections 7 and 8 and renumbering section 9 to read as 7.

*Conferees on the Part
of the Senate*

Sen. W. King, Dist. 2
Sen. Shaheen, Dist. 21
Sen. Dupont, Dist. 6

*Conferees on the Part
of the House*

Rep. B. Packard, Hills. 15
Rep. Dowling, Rock. 7
Rep. C. Brown, Graf. 13
Rep. W. McCann, Straf. 7

AMENDED ANALYSIS

I. Section 1 of this bill is a general purpose statement.

II. Sections 2 and 3 of this bill authorize the industrial research center at the University of New Hampshire to enter into a research partnership with Dartmouth College, with a focus on bio-tech research and development. The partnership is funded from the New Hampshire economic development fund.

III. Section 4 of the bill extends the reporting date for the New Hampshire economic development commission's long-term strategic plan from June 30, 1992, to September 1, 1992. It requires the commission to include in its plan a recommendation on the advisability of establishing a nonprofit corporation to guide the economic development of New Hampshire.

IV. Section 5 of this bill changes the name of the administrator of federal-state financial information to the coordinator of federal funds. The coordinator is to actively seek out federal programs, funds an equipment which may be available to New Hampshire, no-

tify the appropriate state department, municipality or agency and coordinate the application process. Under this bill, the coordinator is to place an emphasis on those federal programs related to economic development and credit.

V. Section 6 of this bill adds a member to the oversight committee at the industrial technology research and innovation center at the university system of New Hampshire Durham campus.

Senator W. King moved to adopt the Committee of Conference Report.

Adopted.

6041L

COMMITTEE OF CONFERENCE REPORT ON SB 308

The committee of conference to which was referred Senate Bill 308, An Act revising the business corporation act having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House each pass the bill as amended by the House.

Conferees on the Part of the Senate

Sen. Podles, Dist. 16

Sen. Hollingworth, Dist. 23

Sen. Colantuono, Dist. 14

Conferees on the Part of the House

Rep. N. Ford, Hills. 24

Rep. E. Moore, Hills. 5

Rep. Lockwood, Merr. 6

Rep. Burling, Sull. 1

Senator Podles moved to adopt the Committee of Conference Report.

Adopted.

SENATOR HEATH: It is my understanding that the rivers bill Committee of Conference that just got appointed moments ago, have already signed off on a bill. Well, my question is this: how in the name of any kind of process can a Committee of Conference Report be signed off by Conferees before they are appointed?

SENATOR DUPONT (In the Chair): Senator, as you know, and I think that you are aware of the fact, that oftentimes when there are problems on Committee of Conferences and they can't come to an agreement, they will sit down and meet and try to get it resolved as a way of moving the process along so that we don't have to stay here until 10 or 11 o'clock tonight. So it is my understanding that the Conference Committee has already met, they understood that they had reached agreement and therefore, we have discharged the exist-

ing committee. We cannot bring the new report in until the committee has been discharged and a new committee appointed. So it is a practice that has gone on here many times before, and it is not inappropriate.

6144L

COMMITTEE OF CONFERENCE REPORT ON SB 321

The committee of conference to which was referred Senate Bill 321, An Act repealing an exemption for town clerks relative to voter registration having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the bill by replacing section 6 with the following:

6 Repeal and Reenactment of RSA 654:12. RSA 654:12, relative to determining qualifications of applicants registering to vote, and repealed by 1990, 119:18, is hereby reenacted as it existed immediately prior to its repeal by 1990, 119:18.

7 Authority of Supervisors of the Checklist and Clerks to Determine Qualifications of Applicants Registering to Vote. RSA 654:12, I is repealed and reenacted to read as follows:

I. When determining the qualifications of an applicant, the supervisors of the checklist, or the town or city clerk, may require the applicant to present any one of the following from each qualification category:

(a) Citizenship. The applicant's birth certificate, passport, naturalization papers if the applicant is a naturalized citizen, a citizenship affidavit, or any other reasonable documentation which indicates the applicant is a United States citizen. The citizenship affidavit shall be in the following form:

Date: _____

CITIZENSHIP AFFIDAVIT

Name: _____

Name at birth if different: _____

Place of birth: _____

Date of birth: _____

I hereby swear, under penalty of perjury, that the information above is true and correct to the best of my knowledge and belief.

(Signature of applicant)

The penalty for perjury is a class B felony with a maximum sentence of imprisonment not to exceed 7 years and/or a fine not to exceed \$4,000.

(b) Age. Any reasonable documentation indicating the applicant is 18 years of age or older.

(c) Domicile. Any reasonable documentation which indicates that the applicant has a domicile and intends to maintain a domicile for an indefinite period in the town, city or ward in which he desires to vote, or an affidavit declaring that the applicant has a domicile and intends to maintain a domicile for an indefinite period in the town, city or ward in which he desires to vote.

8 Effective Date. This act shall take effect 60 days after its passage.

*Conferees on the Part
of the Senate*

Sen. Bass, Dist. 11
Sen. Delahunty, Dist. 22
Sen. St. Jean, Dist. 20

*Conferees on the Part
of the House*

Rep. Warburton, Rock. 6
Rep. Holden, Hills. 9
Rep. Flanagan, Rock. 8
Rep. Gilmore, Straf. 7

6144L

AMENDED ANALYSIS

This bill amends the election laws by:

(1) Repealing the provision in the election laws which permits a town to vote to have the supervisors of the checklist, rather than the town clerk, accept applications from persons to have their names added to the checklist.

(2) Requiring town and city clerks to accept applications from such persons according to certain conditions.

(3) Repealing the provision in the election laws which requires a city or town to vote to permit applications for changes in party affiliation to be made with the city or town clerk, and requiring that cities and towns shall permit such applications for changes in party affiliation.

(4) Allowing supervisors of the checklist and town and city clerks to request specific information from persons who are registering to vote in order to determine whether the applicant is qualified to vote.

Senator Bass moved to adopt the Committee of Conference Report. Adopted.

6092L

COMMITTEE OF CONFERENCE REPORT ON SB 324

The committee of conference to which was referred Senate Bill 324, An Act establishing a commission on the family and permitting

Jewish Rabbis who are not citizens of the United States to solemnize marriages having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and

That the House recede from its position in adopting its amendment to the bill, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing all after the enacting clause with the following:

1 New Chapter; Commission on the Status of the Family. Amend RSA by inserting after chapter 19-D the following new chapter:

CHAPTER 19-E

COMMISSION ON THE STATUS OF THE FAMILY

19-E:1 Commission on the Status of the Family Established; Membership. There is hereby created a state commission on the status of the family, hereinafter called the commission, consisting of 15 members. All members of the commission shall serve terms of 4 years each. Legislative members of the commission may receive legislative mileage while engaged in their work on the commission. The member first appointed by the governor shall call the first meeting. The members shall elect officers at the first meeting. The commission shall consist of the following members:

I. Three members appointed by the governor.

II. Two members of the house, appointed by the speaker of the house.

III. Two members of the senate, appointed by the president of the senate.

IV. The director of the division for children and youth services, or designee.

V. A representative of the Child and Family Services of New Hampshire, appointed by Child and Family Services.

VI. One elementary school and one high school guidance counselor appointed by the New Hampshire Association of School Guidance Counselors.

VII. One representative of the New Hampshire Women's Lobby, appointed by the lobby.

VIII. One representative of the New Hampshire Coalition Against Domestic and Sexual Violence, appointed by the coalition.

IX. One representative of the New Hampshire Marriage and Family Therapists Association, appointed by the association.

X. One police department member, jointly appointed by the New Hampshire Police Chiefs Association and New Hampshire Patrolmen's Association.

19-E:2 Duties and Powers. The duties of the commission shall be as follows:

I. Study the laws, rules and regulations of the state to determine how such laws, rules and regulations impact the family.

II. Recommend passage of new legislation favorable to the family or recommend repeal or amendment of existing legislation harmful to the family.

III. Recommend to the congressional delegation federal legislation favorable to the family or recommend repeal or amendment of existing federal legislation harmful to the family.

IV. Educate the public about the importance of strong families in promoting education, prosperity, citizenship, and respect for the law.

V. Advocate government policies which shall create a favorable atmosphere for family life to flourish.

19-E:3 Cooperation. The commission may cooperate with any state or federal agency or any private organization in conducting investigations and studies in the area of the status of the family.

19-E:4 Report. The commission shall submit a biennial report of its activities to the governor and council, the senate president and the speaker of the house. Said report may include any recommendations for legislation or recommendations for repeal of current statutes.

19-E:5 Legislative Review. The general court shall review the state commission on the status of the family in 4 years to determine the effectiveness of the commission.

2 Marriages; Rabbi's Authority to Perform. Amend RSA 457:37 to read as follows:

457:37 Exceptions. Nothing contained in this chapter shall affect the right of Jewish Rabbis [who are citizens of the United States,] residing in this state, or of the people called Friends or Quakers, to solemnize marriages in the way usually practiced among them, and all marriages so solemnized shall be valid. Jewish Rabbis [who are citizens of the United States,] residing out of the state, may obtain a special license as provided by RSA 457:32.

3 Prospective Repeal. RSA 19-E, relative to the commission on the status of the family, is hereby repealed.

4 Effective Date.

I. Section 3 of this act shall take effect July 1, 1997.

II. The remainder of this act shall take effect 60 days after its passage.

*Conferees on the Part
of the Senate*

Sen. J. King, Dist. 18

Sen. Podles, Dist. 16

Sen. McLane, Dist. 15

*Conferees on the Part
of the House*

Rep. Robinson, Hills. 12

Rep. E. Gagnon, Hills. 47

Rep. Woods, Rock. 19

Rep. Nordgren, Graf. 12

Senator J. King moved to adopt the Committee of Conference Report.

Adopted.

6037L

COMMITTEE OF CONFERENCE REPORT ON SB 339

The committee of conference to which was referred Senate Bill 339, An Act relative to regulatory reform having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House each pass the bill as amended by the House.

*Conferees on the Part
of the Senate*

Sen. Dupont, Dist. 6

Sen. Shaheen, Dist. 21

Sen. Fraser, Dist. 4

*Conferees on the Part
of the House*

Rep. Krueger, Sull. 6

Rep. Porter, Sull. 9

Rep. B. Packard, Hills. 15

Rep. Syracuse, Rock. 26

Senator Shaheen moved to adopt the Committee of Conference Report.

Adopted.

5990L

COMMITTEE OF CONFERENCE REPORT ON SB 343

The committee of conference to which was referred Senate Bill 343, An Act relative to reconsideration of town meeting and school district meeting votes having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend RSA 40:10, IV as inserted by section 1 of the bill by replacing it with the following:

IV. A restriction adopted under this section shall apply to any subsequent action by the meeting which alters or modifies the result of the restricted vote, or which involves the same subject matter as does the restricted vote or warrant article, regardless of whether or not the term "reconsider" is actually used.

*Conferees on the Part
of the Senate*

Sen. Bass, Dist. 11
Sen. Roberge, Dist. 9
Sen. Cohen, Dist. 24

*Conferees on the Part
of the House*

Rep. Wadsworth, Graf. 13
Rep. Weyler, Rock. 10
Rep. Metzger, Ches. 11
Rep. M. Fuller Clark, Rock. 25

AMENDED ANALYSIS

This bill allows towns to restrict actions at a school district or annual town meeting which alter or modify the result of restricted votes or which involves the same subject matter as does the restricted vote or warrant article.

Senator Bass moved to adopt the Committee of Conference Report.

Adopted.

6029L

COMMITTEE OF CONFERENCE REPORT ON SB 362

The committee of conference to which was referred Senate Bill 362, An Act redefining proprietary medicines to include nonprescription medicines and exempting non-pharmacy retail stores and outlets from classification as pharmacies for the purpose of RSA 318 having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the bill by replacing section 2 with the following:

2 Non-Prescription Drug Sale or Possession. Amend RSA 318:42, V to read as follows:

V. The sale and distribution of [proprietary medicines] **nonprescription drugs** as defined in RSA 318:1, XVIII by **non-pharmacy retail stores and outlets. Retail stores and outlets engaging in the sale and distribution of such items shall not be deemed to be improperly engaged in the practice of pharmacy. No rule shall be adopted by the board under this chapter which shall require the**

sale of nonprescription drugs by a licensed pharmacist or under the supervision of a licensed pharmacist. The director of public health services may make a determination that a specific product may only be dispensed upon a written prescription of a practitioner.

*Conferees on the Part
of the Senate*

Sen. Currier, Dist. 7
Sen. Colantuono, Dist. 14
Sen. Fraser, Dist. 4

*Conferees on the Part
of the House*

Rep. Asplund, Merr. 10
Rep. K. Wheeler, Straf. 4
Rep. G. Wiggin, Carr. 7
Rep. Lynch, Ches. 17

Senator Colantuono moved to adopt the Committee of Conference Report.

Adopted.

6059L

COMMITTEE OF CONFERENCE REPORT ON SB 375

The committee of conference to which was referred Senate Bill 375, An Act allowing the division of parks and recreation to give rewards for information leading to the recovery of stolen division property having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and

That the House recede from its position in adopting its amendment to the bill, and

That the Senate and House each pass the bill as passed by the Senate.

*Conferees on the Part
of the Senate*

Sen. Dupont, Dist. 6
Sen. Fraser, Dist. 4
Sen. Cohen, Dist. 24

*Conferees on the Part
of the House*

Rep. M. A. Lewis, Merr. 5
Rep. Dickinson, Carr. 2
Rep. Conroy, Rock. 7
Rep. Janas, Hills. 39

Senator Fraser moved to adopt the Committee of Conference Report.

Adopted.

6051L

COMMITTEE OF CONFERENCE REPORT ON SB 376-FN-A

The committee of conference to which was referred Senate Bill 376-FN-A, An Act relative to congregate services programs having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House each pass the bill as amended by the House.

*Conferees on the Part
of the Senate*

Sen. Blaisdell, Dist. 10

Sen. Hough, Dist. 5

Sen. Roberge, Dist. 9

*Conferees on the Part
of the House*

Rep. K. Foster, Ches. 17

Rep. Carpenter, Hills. 10

Rep. Cain, Belk. 5

Rep. G. Wiggin, Carr. 7

Senator Blaisdell moved to adopt the Committee of Conference Report.

Adopted.

6197L

COMMITTEE OF CONFERENCE REPORT ON SB 393

The committee of conference to which was referred Senate Bill 393, An Act relative to infrastructure development and making appropriations therefor having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and

That the House recede from its position in adopting its amendment to the bill, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing section 2 with the following:

2 Committee Established. There is hereby established a committee to study the feasibility of establishing a technical college in Haverhill, New Hampshire. The committee shall consist of the following members:

I. Two senators, appointed by the president of the senate.

II. Two house members, appointed by the speaker of the house.

III. The commissioner of postsecondary education, or his designee.

IV. A selectman from Haverhill, chosen by the selectmen.

V. A member of the public, appointed by the governor.

Amend the bill by replacing all after section 6 with the following:

7 New Section; Financial Disclosure Required. Amend RSA 12-G by inserting after section 4 the following new section:

12-G:4-a Statements of Financial Interests; Content; Form.

I. Every member of the board shall file by July 1 of each year a verified written statement of financial interests in accordance with the provisions of this section, unless he has already filed a statement in that calendar year.

II. A member of the board shall not be allowed to enter into or continue his duties, unless he has filed a statement of financial interests with the secretary of state.

III. Statements of financial interests shall contain the following information:

(a) The name, address, and type of any professional, business, or other organization in which the reporting individual was an officer, director, associate, partner, proprietor, or employee, or served in any other professional or advisory capacity, and from which any income in excess of \$10,000 was derived during the preceding calendar year.

(b) The description of any debt and the name of the creditor for all debts in excess of \$5,000 owed by the reporting individual, as well as the description of any debt and the name of the debtor for all debts in excess of \$5,000 owed to the reporting individual, but only if the creditor or debtor, respectively, or any guarantor of the debt, has done work for or business with the state in the preceding calendar year. Loans issued by financial institutions whose normal business includes the making of loans of the kind received by the reporting individual, and which are made at the prevailing rate of interest and in accordance with other terms and conditions standard for such loans at the time the debt was contracted need not be disclosed. Debt issued by publicly held corporations and purchased by the reporting individual on the open market at the price available to the public need not be disclosed.

IV. The statement of financial interests shall be completed by typewriting or hand printing, and shall be verified, dated, and signed by the reporting individual personally. It shall be submitted on a form prescribed by the secretary of state.

8 Requests for Proposal Required. Amend RSA 12-G:7, VIII to read as follows:

VIII. To make and execute agreements, contracts and other instruments necessary or convenient in the exercise of the powers and functions of the authority under this chapter, including contracts with any person, firm, corporation, municipality, state agency, governmental unit, or other entity, foreign or domestic, **provided that no contract in excess of \$10,000, including contracts under para-**

graphs III and XV, shall be made without requests for proposal. This requirement may be eliminated by an affirmative vote of 5 members of the board on any particular matter. Justification for eliminating the requirement shall be recorded in the minutes of the meeting.

9 Land Use Controls. RSA 12-G:10, V is repealed and reenacted to read as follows:

V. With the exception of the airport zone and that portion of the airport industrial zone acquired by the Pease development authority pursuant to Surplus Property Act of 1944, section 13-G, in the enforcement of land use controls, the following shall apply:

(a) The authority shall delegate enforcement of the land use controls to the appropriate land use boards of the town of Newington and the city of Portsmouth for property within each municipality, respectively.

(b) If the town of Newington or the city of Portsmouth, as appropriate, rejects the enforcement on the basis of Part I, Art. 28-a of the New Hampshire constitution, the authority may delegate such enforcement to the community which did not reject it or to another community. If the town of Newington and/or the city of Portsmouth elects to perform said enforcement, the building inspection services, zoning enforcement services, and planning services of Portsmouth and/or Newington shall be made available to the authority for all land within the authority's control. In addition, the building code boards of appeal, the zoning boards of adjustment and the planning boards of the respective municipalities shall process building code appeals, administrative appeals, special exception and variance requests, as well as subdivision, site plan review and conditional use applications. The only charge that may be made for such services shall be the standard application fees charged by the municipalities for local permits.

(c) In all instances, the authority shall retain the power to make the final decision regarding applicability, interpretation, and enforcement of its land use controls, which shall require 5 affirmative votes.

(d) Any action of the authority in the exercise of its powers under this section shall be subject to a motion for rehearing and appeal in accordance with the appropriate provisions of RSA 677. In addition to any other person deemed to be an aggrieved person, the city of Portsmouth and the town of Newington and any abutters shall have standing to appeal land use decisions made by the authority.

(e) Any property located at the former Pease Air Force Base which is sold, leased or otherwise conveyed by the United States government to any person other than the state of New Hampshire

or one of its political subdivisions shall be in full compliance with all applicable municipal land use regulations, building codes, electrical codes, plumbing codes and related codes prior to being occupied for any use by any person.

10 New Section; Exclusion for Military Bases. Amend RSA 33 by inserting after section 6-b the following new section:

33:6-c Exclusion from Debt Limit. Any municipality which has voted to acquire land from a United States military base may incur debt by the issuance of bonds or notes beyond the limit of indebtedness as set forth in RSA 33:4, provided that the purpose of the acquisition is to further the economic development of the municipality. Such debt shall at no time be included in the net indebtedness of the municipality for the purpose of ascertaining its borrowing capacity.

11 Pease Appropriation to Lapse. Amend 1991, 355:110 to read as follows:

355:110 Appropriation; Pease Development Authority. A sum not to exceed \$2,800,000 is appropriated to the Pease development authority for its operating budget for the fiscal year ending June 30, 1992, upon the approval of such operating budget by the governor and council, the board of directors of the Pease development authority, and the fiscal committee. **This appropriation shall lapse on June 30, 1993.**

12 Appropriation; Pease Development Authority. A sum not to exceed \$3,800,000 is appropriated to the Pease development authority for its operating budget for the fiscal year ending June 30, 1993, upon the approval of such operating budget by the governor and council, the board of directors of the Pease development authority, and the fiscal committee.

13 Pease Bonds Authorized. To provide funds for the appropriation made in section 12 of this act, the state treasurer is authorized to borrow upon the credit of the state a sum not exceeding \$3,800,000 and for said purpose may issue general obligation bonds or notes in the name and on behalf of the state of New Hampshire in accordance with RSA 12-G:27, III. The payments of principal and interest of the bonds and notes shall be made when due from available funds of the authority in accordance with RSA 12-G:27, III.

14 Strafford County Representative. RSA 12-G:4, I(g) is repealed and reenacted to read as follows:

(g) One member who is nominated by majority vote of the legislative delegation of Strafford county, including the senators whose districts include towns in Strafford county and who is appointed by the governor, the senate president, and the speaker of the house. The member appointed in this manner shall be a resident of Strafford county and shall serve an initial term of 2 years beginning June 1, 1993. Subsequent terms shall be governed by the provisions of

this section. The member appointed in this manner may be removed from office for cause after hearing by the Strafford county legislative delegation.

15 Committee Established; Meetings; Report.

I. There is hereby established a committee to study the feasibility of establishing a research facility, in conjunction with the university system of New Hampshire, on the site of the former Pease Air Force Base. If established, such a facility shall be used for research in advanced science and technology. The committee shall study issues, including, but not limited to, private funding participation, location of the center, federal participation, and enhancement of research activities.

II. The committee members shall be as follows:

(a) Three members of the senate, appointed by the president of the senate.

(b) Three members of the house of representatives, appointed by the speaker of the house.

(c) One public member appointed by the governor and council.

(d) The president of the university of New Hampshire, or designee.

(e) The chair of the Pease development authority, or designee.

III. The committee shall conduct its first meeting within 30 days after the effective date of this section. At the first meeting a chair shall be chosen from among the members of the committee.

IV. The committee shall submit a report, including recommendations for legislation, to the senate president, and the speaker of the house on or before November 1, 1992.

V. The members of the committee shall receive mileage at the legislative rate.

16 Appropriation. The sum of \$1,750,000 is hereby appropriated to the university of New Hampshire for the purpose of preliminary design and site planning for establishing a research facility on the site of Pease Air Force Base to be used for research in advanced science and technology.

17 Bonds Authorized. To provide funds for the appropriation made in section 16 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$1,750,000 and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. Payments of principal and interest of the bonds and notes shall be made from the general funds of the state. The bonds shall be 5-year bonds.

18 Applicability. The funds appropriated in section 16 of this act shall not be spent, obligated, or encumbered until:

I. The study committee established under section 15 of this act has submitted its report to the senate president and the speaker of the house.

II. Such report has recommended the establishment of such a research facility.

III. The capital budget oversight committee and the governor and council have approved the expenditure.

19 Purpose. In enacting sections 20-27 of this act, the general court finds that expansion of the port of New Hampshire shall contribute significantly to the transportation network of the state and increase the commercial opportunities of its businesses. The general court further finds that expansion should be undertaken in a timely manner in order to generate employment and income in the construction industry. The purpose of such expansion is to generate new commerce.

20 Money Released for Final Design, Bid Documents and Wetland Mitigation. Amend 1991, 351:5 to read as follows:

351:5 Appropriation; Port Authority [- Self Liquidating From Revenue]. **The expansion of the port of Portsmouth funded in this section shall include an 11-acre expansion of the north yard of the port and the construction of a 750-foot pier.** The sums herein after detailed are hereby appropriated for the projects specified:

A. Port of Portsmouth expansion	\$16,500,000
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Total state appropriation section 5	\$16,500,000
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(The funds appropriated in subparagraph A for the Port of Portsmouth expansion shall not be expended, encumbered, or obligated in any way unless: (1) the study committee established in 1991, 145, on the New Hampshire port authority submits its report which concludes that the Port of Portsmouth expansion is economically feasible, such that projected revenues exceed projected expenditures; and (2)] an action plan, which shall include construction documents, prepared by the New Hampshire port authority shall be approved by the capital budget oversight committee, the fiscal committee and the governor and council. [The action plan shall include the identification of sufficient revenue sources to amortize both the annual principal and interest payments.]) **\$1,500,000 of the amount appropriated herein is hereby released for the purpose of completion of final design, bid documents and wetland mitigation. This appropriation shall be nonlapsing until the project is completed.)**

21 Source of Funds Changed. Amend 1991, 351:11, I to read as follows:

I. The payment of principal and interest on bonds and notes is-

sued for the projects in sections 1 [and], 2 and 5 shall be made when due from the general funds of the state.

22 Deposits and Employment of Residents. Amend RSA 271-A by inserting after section 17 the following new sections:

271-A:18 Deposits. All revenue in excess of the operating expenditures required for the authority's activities shall be deposited in the general fund until such time as the bonds authorized and issued in 1991, 351:10 have been retired.

271-A:19 Employment of New Hampshire Residents.

I. Any contractor bidding on a project at the port of Portsmouth which is funded through the New Hampshire port authority or the state of New Hampshire shall be encouraged to employ the maximum possible number of New Hampshire residents.

II. For the purposes of this section, "resident" shall mean any person maintaining a dwelling within the state of New Hampshire who has a present intent to remain within the state for a period of time.

23 Special Committee Established. There is hereby established a special committee to establish criteria for the merger of the Pease development authority and the port authority.

24 Membership. The committee members shall be as follows:

I. Two members of the senate, appointed by the president of the senate.

II. Two members of the house of representatives, appointed by the speaker of the house.

III. Two members appointed by the governor, representing the port authority and the Pease development authority.

IV. One person from the city of Portsmouth and one person from the town of Newington, each appointed by the governing body of each community.

25 Meetings. The committee shall conduct its first meeting within 30 days after the effective date of this section. At the first meeting, a chair shall be chosen from among the members of the committee.

26 Report. The committee shall submit a report, including recommendations for legislation to the senate president, the speaker of the house and the governor, no later than November 1, 1993.

27 Repeal. 1991, 351:11, II(c) relative to certain bond payments made from the port authority revenues, is repealed.

28 Effective Date.

I. Section 7 of this act shall take effect July 1, 1993.

II. Section 11 of this act shall take effect upon its passage.

III. The remainder of this act shall take effect 60 days after its passage.

*Conferees on the Part
of the Senate*

Sen. Dupont, Dist. 6

Sen. W. King, Dist. 2

Sen. Shaheen, Dist. 21

*Conferees on the Part
of the House*

Rep. B. Packard, Hills. 15

Rep. Porter, Sull. 9

Rep. C. Brown, Graf. 13

Rep. Vaughn, Rock. 27

AMENDED ANALYSIS

I. Section 1 is a general purpose statement.

II. Sections 2-4 establish a committee to evaluate the feasibility of establishing a technical college in Haverhill, New Hampshire.

III. Sections 5-18:

(1) Require approval by the affected municipality before expansion or contraction of an airport district.

(2) Require board members to file a financial disclosure statement with the secretary of state.

(3) Mandate that the board use requests for proposals for contracts unless a no bid process is approved by 5 members of the board.

(4) Clarify local jurisdiction with respect to land use control issues.

(5) Authorize borrowing by a municipality for the acquisition of land from a former United States military base to be excluded from the municipality's debt limit.

(6) Makes the FY 1992 appropriation for operating expenses non-lapsing and makes a bonded appropriation for FY 1993 operating expenses.

(7) Changes the manner in which the member of the board from Strafford county is chosen.

(8) Establish a committee to determine the feasibility of establishing a research facility, in conjunction with the university system of New Hampshire, at former Pease Air Force Base.

(9) Make a contingent bonded appropriation to the university system of New Hampshire for such research facility.

IV. Sections 19-22 release money appropriated for the expansion of the port of New Hampshire. Under current law, the release of such funds is subject to certain conditions. The principal and interest on such bonds is to be paid from the state general fund.

Sections 23-26 establish a special committee to establish criteria for the merger of the Pease development authority and the port authority. The committee shall submit a report, including recommendations for legislation to the senate president, the speaker of the house and the governor, no later than November 1, 1993.

Senator Shaheen moved to adopt the Committee of Conference Report.

Adopted.

6136L

COMMITTEE OF CONFERENCE REPORT ON SB 399-FN-LOCAL

The committee of conference to which was referred Senate Bill 399-FN-LOCAL, An Act requiring rabies shots for cats having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House each pass the bill as amended by the House.

Conferees on the Part of the Senate

Sen. Fraser, Dist. 4

Sen. Cohen, Dist. 24

Sen. Roberge, Dist. 9

Conferees on the Part of the House

Rep. Grodin, Ches. 6

Rep. Barnes, Rock. 6

Rep. E. Clark, Ches. 3

Rep. M. F. Clark, Rock. 25

Senator Roberge moved to adopt the Committee of Conference report.

Adopted.

6083L

COMMITTEE OF CONFERENCE REPORT ON SB 410

The committee of conference to which was referred Senate Bill 410, An Act relative to AIDS having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House each pass the bill as amended by the House.

Conferees on the Part of the Senate

Sen. J. King, Dist. 18

Sen. McLane, Dist. 15

Sen. Fraser, Dist. 4

Conferees on the Part of the House

Rep. R. Foster, Carr. 4

Rep. Holmes, Merr. 13

Rep. Ziegler, Belk. 6

Rep. K. Foster, Ches. 17

Senator J. King moved to adopt the Committee of Conference Report.

Adopted.

5986L

COMMITTEE OF CONFERENCE REPORT ON SB 418

The committee of conference to which was referred Senate Bill 418, An Act changing the title of juvenile services officers to juvenile probation-parole officers having considered the same, report the same with the following recommendations:

having considered the same, report the committee is unable to reach agreement.

*Conferees on the Part
of the Senate*

Sen. Currier, Dist. 7

Sen. J. King, Dist. 18

Sen. W. King, Dist. 2

*Conferees on the Part
of the House*

Rep. W. McCain, Rock. 11

Rep. V. Cook, Hills. 42

Rep. V. Lovejoy, Rock. 7

Rep. Nordgren, Graf. 12

Senator J. King moved to adopt the Committee of Conference Report.

Adopted.

6126L

COMMITTEE OF CONFERENCE REPORT ON SB 450-FN

The committee of conference to which was referred Senate Bill 450-FN, An Act relative to capital formation having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend RSA 162-A:22 as inserted by section 3 of the bill by replacing it with the following:

162-A:22 Unified Contingent Credit Limit. The total amount of state guarantees in force under RSA 162-A:8, RSA 162-A:10, III, RSA 162-A:13, RSA 162-A:17, and RSA 162-I:9-a shall not exceed in the aggregate at any time \$50,000,000 plus interest, provided that such amount shall be increased to \$65,000,000 plus interest on January 1, 1993, to \$80,000,000 plus interest on January 1, 1994, to \$95,000,000 plus interest on January 1, 1995.

Amend the bill by replacing section 18 with the following:

18 Business Finance Authority Report to Study Committee. The business finance authority shall hire a consultant for the purpose of assisting the authority to develop and implement the programs created by RSA 162-A. Among other things, the consultant shall assist the authority in the development of performance indicators and accountability standards. The consultant shall as part of its duties pre-

pare a report describing the development and implementation of the authority's programs, and such report shall be submitted to the business finance authority. In addition, the business finance authority shall develop standards for the review of its portfolio of loan programs. Such a review shall be conducted at a minimum of once every 2 years and shall include internal and external examination procedures. The executive director of the business finance authority shall submit a report on performance and accountability standards adopted for implementation by the board to the study committee created by 1991, 149:1 not later than 6 months after the effective date of this section.

Amend the bill by replacing section 47 with the following:
47 Effective Date.

I. Sections 1-18 and 46 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect 60 days after its passage.

*Conferees on the Part
of the Senate*

Sen. Dupont, Dist. 6
Sen. W. King, Dist. 2
Sen. Shaheen, Dist. 21

*Conferees on the Part
of the House*

Rep. B. Packard, Hills. 15
Rep. D. Sytek, Rock. 20
Rep. C. Brown, Graf. 13
Rep. Burling, Sull. 1

AMENDED ANALYSIS

I. Section 1 of the bill is a general purpose statement.

II. Sections 2-16 of this bill expand and modify the powers of the industrial development authority. The name of the authority is changed to the business finance authority.

III. Section 17 extends the reporting date of the committee established under 1991, 149:1 to study the industrial development authority from December 1, 1991, to November 1, 1992.

IV. Section 18 requires the business finance authority to hire a consultant, who shall report to the authority. Section 18 also requires the business finance authority to develop standards for the review of its portfolio of loan programs, such review to be conducted every 2 years.

V. Sections 19-22 authorize the Dover Industrial Development Authority to engage in redevelopment activities.

VI. Sections 23-44 of the bill allow the expansion of the role of local industrial development authorities in real estate matters under RSA 162-G and RSA 162-J.

VII. Section 45 establishes a legislative committee to study financial management of public funds.

VIII. Section 46 establishes a legislative committee to study property tax abatements for economic development.

Senator W. King moved to adopt the Committee of Conference Report.

Adopted.

6145L

COMMITTEE OF CONFERENCE REPORT ON SB 452-FN-LOCAL

The committee of conference to which was referred Senate Bill 452-FN-LOCAL, An Act redistricting certain district courts having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend RSA 502-A:1, VII as inserted by section 1 of the bill by replacing it with the following:

VII. DOVER-SOMERSWORTH-DURHAM DISTRICT. The Dover-Somersworth -Durham district shall consist of the cities of Dover and Somersworth and the towns of Rollinsford, Durham, Lee, and Madbury. The court shall be located in a city or town within the judicial district in a location and facility designated pursuant to RSA 490-B:3, having regard for the convenience of the communities within the district, provided, however, that the court shall not be located in any building which does not meet the minimum standard prescribed by the New Hampshire court accreditation commission pursuant to RSA 490:5-c. The court shall hold sessions regularly at the principal court location and elsewhere in the district as justice may require. Special sessions of said court for cases arising from the town of Durham shall be held at the principal court location as the caseload and justice requires. The court shall bear the name of the city or town in which it is located.

Amend RSA 501-A:1, XV as inserted by section 1 of the bill by replacing it with the following:

XV. HENNIKER-HILLSBOROUGH DISTRICT. The Henniker-Hillsborough district shall consist of the towns of Henniker, Warner, and Bradford in Merrimack county and the towns of Hillsborough, Deering, Windsor, Antrim and Bennington in Hillsborough county. The court shall be located in a city or town within the judicial district in a location and facility designated pursuant to RSA 490-B:3, having regard for the convenience of the communities

within the district, provided, however, that the court shall not be located in any building which does not meet the minimum standard prescribed by the New Hampshire court accreditation commission pursuant to RSA 490:5-c. The court shall hold sessions regularly at the principal court location and elsewhere in the district as justice may require. Special sessions of said court for cases arising from the town of Henniker shall be held at the principal court location as the caseload and justice requires. The court shall bear the name of the city or town in which it is located.

Amend the bill by replacing section 5 with the following:

5 Special Justice; Pelham Municipal Court. Amend 1987, 80:1 to read as follows:

80:1 Special Justice; Pelham Municipal Court. Upon the occurrence of a vacancy in the office of the justice of the Pelham municipal court, the special justice of the Pelham municipal court shall continue in office as a special justice of the [Nashua] **Salem** district court[, as authorized by RSA 502-A:3, and shall hold sessions in Pelham as authorized by RSA 502-A:3].

6 Effective Date.

I. Sections 1 and 2 of this act shall take effect January 1, 1993, or when the conditions of section 4 have been met.

II. Sections 3-5 of this act shall take effect upon its passage.

*Conferees on the Part
of the Senate*

Sen. Podles, Dist. 16

Sen. Hollingworth, Dist. 23

Sen. Russman, Dist. 19

*Conferees on the Part
of the House*

Rep. Jacobson, Merr. 2

Rep. Lown, Hills. 9

Rep. D. Sytek, Rock. 20

Rep. Knowles, Straf. 7

AMENDED ANALYSIS

This bill reorganizes and consolidates the districts of certain district courts and places a freeze on the appointment of district court judges unless the current list of justices is exhausted and need is certified by the chief justice of the supreme court. The bill also allows the special justice of the Pelham municipal court to continue as a special justice of the Salem district court.

Senator Podles moved to adopt the Committee of Conference Report.

SENATOR DISNARD: Mr. President and members of the Senate, I would hope that the Senate would vote on this bill and appoint a new Committee of Conference. I would like to speak. The Municipal groups that I speak to in my district are concerned that on the study committee, municipal officials were not included, Judges, lawyers

and legal people. I am also very, very upset that the Senate conferees did not stand by the Senate position. When I look at the Committee of Conference report and I notice that the two or three Senators that had strong concerns in the Senate which the Senate agreed with almost unanimously, the position was not upheld, but another Senator—nothing against the other Senator, good for him or her—another Senator was able to get into the Committee of Conference, another court area protected. I think, out of deference to our own people, there should be another Committee of Conference and that should be reviewed. Further, does the Senate know that the House killed HB 1026?

SENATOR RUSSMAN: In defense of the Committee of Conference report, if we are going to start to save money in the court system, we need to consolidate these courts. We need to eliminate some of the courts that are either unnecessary or marginal. There is no question that certain sessions can still be held in the areas that perhaps would be of concern. Many of these district courts have been there for many, many, many, many years and I realize that that is tradition, perhaps, it certainly is easy for a police officer and so on to do that, but the reality of it is, if we are going to move forward with a court system and bring it into the 20th century, we ought to consolidate these particular courts and try to cut down on duplication and unnecessary extras in those terms. I would hope that you will vote to adopt the Committee of Conference report as being the most realistic one in terms of modernizing our court system and trying to save the state some money.

SENATOR DISNARD: Here we go again, would you believe? We want to save the state money, good, but we are passing costs onto the districts and communities that have to now hire extra police in place of those who have to travel many miles to another court. Municipal officials were not included on this, and I wonder how fair that is?

SENATOR RUSSMAN: I believe that police departments did have some input on the committee, if I am not mistaken. The other thing is, they aren't going to travel for many, many, many miles. I mean, there will be some travel no doubt involved, and there is no question if we wanted to do that, then we perhaps should have a district court in every community. But the reality of it is, that it is not cost effective to do that and in areas where there isn't a great distance to travel, it can easily be done, it is not . . . it really can be.

SENATOR DISNARD: As a member of the legal profession, would you in your opinion, with Henniker a college town, Durham a college town, have different types of cases that are unique to those communities?

SENATOR RUSSMAN: No sir, as a matter of fact, I don't. I feel just the opposite. I happen to believe that those kids that are in college, if the same laws are broken, they should be treated no differently, frankly, than anybody else. What about the guy who couldn't afford to go to college and he happens to go out and do something criminal, mischief or disorderly conduct, or whatever it might be, having too much to drink or what have you, they should be treated exactly the same as the kids that are in college, and I feel strongly about that.

SENATOR DISNARD: Then why was one change made to the community in the Committee of Conference and the others eliminated that the Senate voted on almost unanimously?

SENATOR RUSSMAN: In all honesty, my understanding is that it didn't happen quite the way that you . . . I think that you may be under the impression. I think that the court that you speak of, which I believe is the Pelham district court, was through an agreement with the court council, was agreed that they could stay there only until their lease ran out, which is a year, I think, from this June. So they have one more year and they are gone and the judges are assigned to the Salem district court. That is my understanding.

SENATOR DISNARD: Can you read to me, where that says that?

SENATOR RUSSMAN: I mean the brackets take that provision out. If you can see that there is brackets here showing that. It is authorized that it shall hold sessions at Pelham . . . that bracket is actually removed. The agreement that just keeps it open until through June of next year is a side agreement with the court. They said that we will agree to keep it just through the lease, so there is a lease agreement. Actually they would have to break the lease in order to take it out of there.

SENATOR DISNARD: Would a side agreement with the board have precedent over legislative action?

SENATOR RUSSMAN: They are two separate issues, Senator. The side agreement . . . if the court determines that it is feasible for them to keep it through the lease period and no longer, and then that judge would be assigned to Salem district court. One of the concerns that the other Senator had was that it might go to Nashua and the judge was concerned about going to Nashua court, when it really should be going to the Salem district court. That was changed in

that area, but that court in all essence is treated no differently. That is going the way of the ghost just like these other courts would at the same time.

SENATOR DISNARD: Thank you very much.

SENATOR W. KING: I am going to speak very quickly. I am going to vote against the Committee of Conference report for two reasons. One is that this is a major change in terms of how we provide justice in this state. Our district court system has always been a locally based district court system so that the folks that live in a community have the opportunity to get justice in an expedited fashion. What we are doing particularly for those areas in the northern part of the state, is requiring people to drive great distances to go to a district court. The second issue is far more important — well, it is equally as important. This is not a cost savings measure. This is only a cost savings measure for the state of New Hampshire for the court system, over which we have little control in terms of the cost anyway, because they hardly ever give us the information that we really need to have in order to understand what their costs are. But where the cost are going to be borne instead is by the small communities throughout the state who are going to have to pay for more police officers, for more prosecutors, for more people to travel greater distances, so that we are passing on those costs to communities all over the state of New Hampshire. I would urge you to vote no on the Committee of Conference report.

SENATOR PODLES: Mr. President, I would like to express my opinion by echoing the sentiments expressed by Senator Russman. This is a long range plan. It is not going to happen next year or in five years even, it can go on for years. It will save the taxpayers money because we don't need a district court in every single town.

Division vote requested.

Yeas 14

Nays 6

Motion Adopted.

6114L

COMMITTEE OF CONFERENCE REPORT ON SB 472-FN

The committee of conference to which was referred Senate Bill 472-FN, An Act relative to the victims' assistance fund, the definition of obscene material, modifying sexual assault statutes, and continuing a study committee having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrency with the House amendment, and concur with the House amendment, and

That the Senate and House each pass the bill as amended by the House.

*Conferees on the Part
of the Senate*

Sen. Podles, Dist. 16

Sen. Hollingworth, Dist. 23

Sen. Russman, Dist. 19

*Conferees on the Part
of the House*

Rep. Lozeau, Hills. 25

Rep. R. Campbell, Belk. 5

Rep. Hultgren, Hills. 1

Rep. Baldizar, Hills. 22

Senator Podles moved to adopt the Committee of Conference Report.

Adopted.

6165L

COMMITTEE OF CONFERENCE REPORT ON HB 1025-A

The committee of conference to which was referred House Bill 1025-A, An Act relative to budget adjustments for fiscal years 1992 and 1993 having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing sections 1 and 2 with the following:

1 Supplemental Appropriations. In addition to any other sums for the fiscal years ending June 30, 1992, and June 30, 1993, the following appropriations are hereby authorized to the following departments and agencies. Said appropriations shall be a charge against the funds as specified in the individual appropriation:

	FY 92	FY 93
02 Admin of justice & public prtn		
01 Judicial branch		
04 District and municipal courts		
10 Personal services - permanent		27,624
11 Judges		36,000
20 Current expenses		5,200
30 Equipment		12,512
91 Jury expense		101,218
Total		182,554

Estimated source of funds for District and municipal courts General fund			<u>182,554</u>
Total			182,554
02 Admin of justice & public prtn			
01 Judicial branch			
06 Court security			
10 Personal services - permanent			<u>19,446</u>
Total			19,446
Estimated source of funds for Court security General fund			<u>19,446</u>
Total			19,446
Total			202,000
Estimated source of funds for Judicial branch General fund			<u>202,000</u>
Total			202,000
02 Admin of justice & public prtn			
07 Office of emergency management			
01 Emergency mgt assistance			
04 Hurricane bob - FEMA 0917			
90 Public assistance	G	<u>297,076</u>	
Total		297,076	
Estimated source of funds for Hurricane bob - FEMA 0917 General fund			<u>297,076</u>
Total		297,076	
02 Admin of justice & public prtn			
07 Office of emergency management			
01 Emergency mgt assistance			
05 Coastal storm - FEMA 0923			
90 Public assistance	G	144,621	
91 Individual assistance	G	<u>80,625</u>	
Total		225,246	
Estimated source of funds for Coastal storm - FEMA 0923 General fund			<u>225,246</u>
Total		225,246	

Total	522,322	
Estimated source of funds for		
Office of emergency management		
General fund	<u>522,322</u>	
Total	522,322	
02 Admin of justice & public prtn		
16 Department of corrections		
03 Division of adult services		
02 Bureau of security		
01 Security		
18 Overtime	93,366	150,000
60 Benefits	9,903	15,000
92 Inmate wages	<u>30,000</u>	<u>100,000</u>
Total	133,269	265,000
Estimated source of funds for		
Security		
General fund	<u>133,269</u>	<u>265,000</u>
Total	133,269	265,000
02 Admin of justice & public prtn		
16 Department of corrections		
03 Division of adult services		
06 Bureau of health services		
03 Medical dental		
45 Personal services/non benefit	0	405,000
93 Outside medical services	<u>1,092,857</u>	<u>838,000</u>
Total	1,092,857	1,243,000
Estimated source of funds for		
Medical dental		
General fund	<u>1,092,857</u>	<u>1,243,000</u>
Total	1,092,857	1,243,000
02 Admin of justice & public prtn		
16 Department of corrections		
03 Division of adult services		
09 Pharmacy		
10 Personal services - permanent *		99,813
50 Personal services - temporary		14,625
60 Benefits		32,042
* The following positions are established		
effective July 1, 1992: 1 administrator II,		
1 pharmacist I, 2 pharmacy clerks.		
Total		<u>146,480</u>

Estimated source of funds for		
Pharmacy		
General fund		<u>146,480</u>
Total		146,480
02 Admin of justice & public prtn		
16 Department of corrections		
05 Division of med-forensic svcs		
01 Secure psychiatric unit		
45 Personal services/non benefit		21,000
46 Consultants		59,000
93 Outside medical services		<u>33,000</u>
Total		113,000
Estimated source of funds for		
Secure psychiatric unit		
General fund		<u>113,000</u>
Total		113,000
02 Admin of justice & public prtn		
16 Department of corrections		
06 NH state prison for women		
01 Prison for women		
93 Outside medical services		<u>197,000</u>
Total		197,000
Estimated source of funds for		
Prison for women		
General fund		<u>197,000</u>
Total		197,000
Total	1,226,126	1,964,480
Estimated source of funds for		
Department of corrections		
General fund	<u>1,226,126</u>	<u>1,964,480</u>
Total	1,226,126	1,964,480
Total	1,748,448	2,166,480
Estimated source of funds for		
Category 02		
General fund	<u>1,748,448</u>	<u>2,166,480</u>
Total	1,748,448	2,166,480
05 Health and social services		
01 Dept of health and human svcs		
02 Div of public health services		
04 Family and community health		

01 Maternal and child health

94 Child dental health program * 120,000

* This funding is to restore preventive child health dental hygiene services to areas where such services are lacking. Services shall be targeted to children ages 3 to 6 years from low income families enrolled in well - child clinics. Preventive services include examination, cleaning, topical fluoride application, two bite wing x-rays, home care instruction, and referral for treatment but not the treatment itself. Compliance with the dental practices act will be the responsibility of each local clinic provided a portion of these funds.

Total	120,000
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Estimated source of funds for

Maternal and child health

General fund	120,000
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Total	120,000
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Total	120,000
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Estimated source of funds for

Div of public health services

General fund	120,000
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Total	120,000
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05 Health and social services

01 Dept of health and human sves

03 Div for children & youth sves

02 Bureau of children

04 C&Y title IVE grants

41 Audit fund set aside	488	843
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90 Foster care	977,700	1,686,666
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Total	978,188	1,687,509
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Estimated source of funds for

C&Y title IVE grants

00 Federal funds	489,338	844,176
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00 County funds	122,213	210,833
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General fund	366,637	632,500
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Total	978,188	1,687,509
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05 Health and social services

01 Dept of health and human sves

03 Div for children & youth sves

02 Bureau of children

07 DCYS - settlement		
90 DCYS settlement	<u>1,141,209</u>	<u>4,490,000</u>
Total	1,141,209	4,490,000
Estimated source of funds for DCYS - settlement		
05 County funds	285,302	1,122,500
General fund	<u>855,907</u>	<u>3,367,500</u>
Total	1,141,209	4,490,000
Total	2,119,397	6,177,509
Estimated source of funds for Div of children and youth services		
Federal funds	489,338	844,176
General fund	1,222,544	4,000,000
Other funds	<u>407,515</u>	<u>1,333,333</u>
Total	2,119,397	6,177,509
05 Health and social services		
01 Dept of health and human svcs		
04 Division of human services		
01 Directors office		
01 Administration		
41 Audit fund set aside	56	103
20 Current expense	<u>111,111</u>	<u>200,000</u>
Total	111,167	200,103
Estimated source of funds for Administration		
00 Federal funds	57,633	103,743
General fund	<u>53,534</u>	<u>96,360</u>
Total	111,167	200,103
05 Health and social services		
01 Dept of health and human svcs		
04 Division of human services		
04 Financial grants		
01 Aid to families w/dependents		
41 Audit fund set aside	2,649	6,169
90 AFDC	<u>5,298,676</u>	<u>12,338,036</u>
Total	5,301,325	12,344,205
Estimated source of funds for Aid to families w/dependents		
00 Federal funds	2,651,987	6,175,187
09 Agency income	141,081	185,124
General fund	<u>2,508,257</u>	<u>5,983,894</u>
Total	5,301,325	12,344,205

05 Health and social services

01 Dept of health and human svcs

04 Division of human services

04 Financial grants

05 Medical grants

41 Audit fund set aside	9,170	19,183
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90 Provider payments	<u>18,341,430</u>	<u>38,366,685</u>
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Total	18,350,600	38,385,868
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Estimated source of funds for

Medical grants

00 Federal funds	9,179,886	19,202,526
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General fund	<u>9,170,714</u>	<u>19,183,342</u>
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Total	18,350,600	38,385,868
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05 Health and social services

01 Dept of health and human svcs

04 Division of human services

04 Financial grants

06 Nursing services

41 Audit fund set aside	5,693	6,263
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90 Nursing services	10,085,796	8,451,641
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91 Home nursing services	<u>1,301,181</u>	<u>4,075,248</u>
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Total	11,392,670	12,533,152
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Estimated source of funds for

Nursing services

00 Federal funds	5,699,181	6,269,708
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05 County funds	2,674,846	2,598,880
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General fund	<u>3,018,643</u>	<u>3,664,565</u>
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Total	11,392,670	12,533,152
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05 Health and social services

01 Dept of health and human svcs

04 Division of human services

04 Financial grants

07 Other nursing homes

41 Audit fund set aside	180	215
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90 Other nursing homes	<u>359,513</u>	<u>430,000</u>
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Total	359,693	430,215
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Estimated source of funds for

Other nursing homes

00 Federal funds	179,936	215,215
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General fund	<u>179,757</u>	<u>215,000</u>
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Total	359,693	430,215
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Total	35,515,455	63,893,543
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Estimated source of funds for

Div of human services

Federal funds		17,768,623	31,966,379
General fund		14,930,905	29,143,161
Other funds		<u>2,815,927</u>	<u>2,784,004</u>
Total		35,515,455	63,893,543
Total		37,634,852	70,191,052
Estimated source of funds for			
Dept of health and human svcs			
Federal funds		18,257,961	32,810,555
General fund		16,153,448	33,263,161
Other funds		<u>3,223,442</u>	<u>4,117,337</u>
Total		37,634,852	70,191,052
Total		37,634,852	70,191,052
Estimated source of funds for			
Category 05			
Federal funds		18,257,961	32,810,555
General fund		16,153,448	33,263,161
Other funds		<u>3,223,442</u>	<u>4,117,337</u>
Total		37,634,852	70,191,052
Total appropriations as included in		39,383,300	72,357,532
Category 02 and category 05			
Estimated source of funds for			
Category 02 and category 05			
Federal funds		18,257,961	32,810,555
General fund		17,901,896	35,429,641
Other funds		<u>3,223,442</u>	<u>4,117,337</u>
Total		39,383,300	72,357,532
2 Department of Administrative Services; Indigent Defenders.			
Amend PAU 01, 04, 01, 02, 04 as inserted by 1991, 312:1 as follows:			
		FY 92	FY 93
Strike out:			
90 Assigned counsel	F	2,100,000	500,000
Total		10,200,000	9,950,000
Estimated source of funds for			
indigent defense			
General fund		<u>10,200,000</u>	<u>9,950,000</u>
Total		10,200,000	9,950,000
Insert in place thereof:			
90 Assigned counsel	F	<u>2,600,000</u>	<u>2,000,000</u>
Total		10,700,000	11,450,000
Estimated source of funds for			
indigent defense			
General fund		<u>10,700,000</u>	<u>11,450,000</u>
Total		10,700,000	11,450,000

Amend the bill by replacing sections 18 and 19 with the following:

18 State Treasury; Sources of Funds for Administration. Amend the following state treasury PAU's as inserted by 1991, 312:1 as follows:

	FY 92	FY 93
01, 08, 01		
Strike out:		
01 Other agency funds	\$ 60,000	\$ 60,000
Insert in place thereof:		
01 Other agency funds	60,000	70,605
Strike out:		
General fund	691,404	709,053
Insert in place thereof:		
General fund	691,404	698,448
01, 08, 02		
Insert:		
49 Transfers to other state agencies		10,605
59 Part-time benefited		17,747
Strike out:		
60 Benefits	26,972	27,890
Insert in place thereof:		
60 Benefits	26,972	33,214
Strike out:		
Total	236,279	240,256
Insert in place thereof:		
Total	236,279	273,982
Strike out:		
07 Agency income	236,279	240,256
Insert in place thereof:		
07 Agency income	236,279	273,982
19 Libraries, Arts and Historical Resources; State Law Library.		
Amend PAU 01, 06, 02, 01 as inserted by 1991, 312:1 as follows:		

	FY 92	FY 93
Strike out		
94 Books - law library	80,000	80,000
Insert in place thereof		
94 Books - law library	80,000	

Amend the bill by replacing sections 23-26 with the following:

23 Supplemental Appropriation; Department of Justice. Amend PAU 02, 04, 01, 01 as inserted by 1991, 312:1 as follows:

	FY 92	FY 93
Insert		
93 Litigation expense *	85,000	480,000

* This appropriation shall be used for the purposes of RSA 7:12 and shall not be transferred or expended for any other purpose.

24 Supplemental Appropriation; Department of Agriculture, Division of Soil Conservation.

I. It is the intent of this section to continue to facilitate the joint efforts of landowners, land occupiers, and units of government in carrying out measures for the conservation and proper development of lands in the state. In order to make this effort possible and to ensure the continuance of United States Department of Agriculture technical and financial support for current and future programs it is necessary for the state of New Hampshire to maintain the existing network established over prior years through the establishment and funding of the state conservation committee. The funds appropriated in paragraph II will maintain the operation of the state conservation committee allowing the state of New Hampshire to seek grants, funds, matching funds, and participate in federal programs and thus better support conservation programs at the county level.

II. In addition to any other sums appropriated to PAU 02, 03, 07, soil conservation, the sum of \$20,000 is hereby appropriated to such PAU for the biennium ending June 30, 1993. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

25 Judicial Branch; State Law Library. Amend the following judicial branch PAU's for fiscal year 1993 as inserted by 1991, 312:1 as follows:

FY 93

02, 01, 01

Strike out

10 Personal Services - Permanent	1,719,723
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Insert in place thereof

10 Personal Services - Permanent*	1,744,628
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Strike out

60 Benefits	686,476
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Insert in place thereof

60 Benefits	696,598
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* Upon the effective date of this act, the position of librarian III (LG 24) shall be established within the supreme court in PAU 02, 01, 01.

FY 92

FY 93

02, 01, 05

Insert

92 Books	80,000
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26 Department of Justice; Consumer Protection; Securities Regulation/Enforcement. Amend PAU 02, 04, 02, 02 as inserted by 1991, 312:1 as amended by 1991, 355:95 as follows:

FY 92

FY 93

Strike out:

91 Securities regul/enforce	\$298,762	\$301,161
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Insert in place thereof:

91 Securities regul/enforce *	298,762	301,161
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* The funds in this appropriation shall be exempt from Executive Order Number 91-5, effective October 23, 1991.

Amend the bill by replacing section 29 with the following:

29 Department of Resources and Economic Development; Division of Economic Development; Travel and Tourism Development; 1993 Funding Increased. Amend PAU 03, 03, 02, 03 as inserted by 1991, 312:1 as follows:

	FY 92	FY 93
Strike out:		
90 Printing adv and promotion	\$1,521,662	\$1,519,931
93 Joint promotional advertising *	G 700,000	700,000
* An amount not exceeding 20 percent of the total appropriation may be transferred to printing and advertising with the approval of the fiscal committee and governor and council.		
Total	2,441,215	2,441,282
Estimated source of funds for travel & tourism development		
General fund	<u>2,441,215</u>	<u>2,441,282</u>
Total	2,441,215	2,441,282

Insert in place thereof:

90 Printing adv and promotion	1,521,662	1,819,931
93 Joint promotional advertising *	G 700,000	700,000
* An amount not exceeding 30 percent of the total appropriation may be transferred to printing and advertising with the approval of the fiscal committee and governor and council.		
Total	2,441,215	2,741,282
Estimated source of funds for travel & tourism development		
General fund	<u>2,441,215</u>	<u>2,741,282</u>
Total	2,441,215	2,741,282

Amend the bill by replacing section 40 with the following:

40 Department of Transportation; Fuel Distribution. Amend PAU 04, 01, 02, 05, 04 as inserted by 1991, 312:1 as follows:

	FY 92	FY 93
Strike out:		
20 Current expenses	12,290	12,971
Insert in place thereof:		
20 Current expenses	12,290	62,971

Strike out:

09 Agency income	C	197,255	201,106
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Insert in place thereof:

09 Agency income	C	197,255	251,106
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Amend the bill by replacing section 53 with the following:

53 Additional Appropriation for Catastrophic Illness Program; Department of Health and Human Services. Amend PAU 05, 01, 02, 04, 02 as inserted by 1991, 312:1 as follows:

	FY 92	FY 93
Strike out:		
94 Catastrophic illness program	241,512	241,512
Insert in place thereof:		
94 Catastrophic illness program	241,512	341,512
Strike out:		
Total	2,956,610	2,958,384
Estimated source of funds for special medical services		
00 Federal funds	870,595	870,595
General fund	<u>2,086,015</u>	<u>2,087,789</u>
Total	2,956,610	2,958,384
Insert in place thereof:		
Total	2,956,610	3,058,384
Estimated source of funds for special medical services		
00 Federal funds	870,595	870,595
General fund	<u>2,086,015</u>	<u>2,187,789</u>
Total	2,956,610	3,058,384

Amend the bill by replacing all after section 54 with the following:

55 Position Transfer. The position of state house complex health services coordinator under 1991, 312:1.05, 01, 02, 01, 01 of the department of health and human services, division of public health services is hereby transferred at current salary and benefits to 1991, 312:1.01, 02, 01, 03, 01 of the legislative branch. The legislative facilities committee shall be responsible for determining any increases in such salary.

56 Health Services Position Deleted. Amend PAU 05, 01, 02, 01, 01 as follows:

	FY 92	FY 93
Strike out:		
10 Personal services - permanent	250,371	254,539
Insert in place thereof:		
10 Personal services - permanent	250,371	226,237

Strike out:

60 Benefits	95,848	97,099
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Insert in place thereof:

60 Benefits	95,848	88,891
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57 Health Services Position Inserted. Amend PAU 01, 02, 01, 03, 01 as follows:

Strike out:

10 Personal services - permanent	181,371	186,170
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Insert in place thereof:

10 Personal services - permanent	181,371	219,579
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Strike out:

60 Benefits	57,276	58,863
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Insert in place thereof:

60 Benefits	57,276	68,603
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(The position of state house complex health services coordinator; its incumbent and all funds associated with the position are hereby transferred to and vested in the legislative facilities committee.)

58 Redistribution of Federal Funds; AFDC; Department of Health and Human Services. Amend PAU 05, 01, 04, 04, 01 as inserted by 1991, 312:1 as follows:

	FY 92	FY 93
Strike out:		
91 Emergency assistance program	F 800,000	0
Insert in place thereof:		
91 Emergency assistance program	800,000	800,000
Strike out:		
00 Federal funds	25,132,408	25,238,684
09 Agency income	2,187,931	2,187,931
General fund	<u>22,919,369</u>	<u>23,025,539</u>
Total	50,239,708	50,452,154
Insert in place thereof:		
00 Federal funds	27,784,395	31,814,171
09 Agency income	2,329,012	2,373,055
General fund	<u>25,427,626</u>	<u>29,409,433</u>
Total	55,541,033	63,596,359

59 Supplemental Appropriation; Division of Elderly and Adult Services. The sum of \$200,000 for the fiscal year ending June 30, 1993, is hereby appropriated to the division of elderly and adult services, department of health and human services for the purpose of providing services under the provisions of the National Affordable Housing Act. These funds shall be nonlapsing and nontransferable and in addition to any other funds appropriated to the division of elderly and adult

services. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

60 Appropriation; Medicaid. The following sums are appropriated, for the fiscal year ending June 30, 1993, to the division of human services, the department of health and human services for the purposes of providing medical assistance to pregnant women and infants whose income is less than 150 percent of the federal poverty level.

	FY 92	FY 93
Federal	0	492,093
General	<u>0</u>	<u>492,093</u>
Total	0	984,186

These appropriations shall be in addition to any other appropriations made to the division of human services, the department of health and human services. The governor is authorized to draw his warrant for said sums out of any money in the treasury not otherwise appropriated.

61 Transfer Authority in 1991, 312:1 Extended. Notwithstanding any other provision of law, including the provisions of RSA 99:4 and RSA 9:17-a through 17-c, during the biennium ending June 30, 1993, the director of the division of mental health and developmental services is authorized to transfer, with the approval of fiscal committee and governor and council, from New Hampshire hospital PAU's 05, 01, 05, 06, 01 through 05, 01, 05, 06, 08 to the bureau of mental health services, PAU 05, 01, 05, 04, 01 class 94, community support, such sums as are necessary for the purpose of providing medicaid services to patients served in community programs.

62 Appropriation; Department of Environmental Services. The sum of \$45,500 for the fiscal year ending June 30, 1992, is hereby appropriated to the department of environmental services for the purpose of refunding to each state, county, municipality, town, precinct or district that submitted payments for water system permits during the fiscal year ending June 30, 1991. This appropriation is in addition to any other funds appropriated to the department of environmental services. The governor is authorized to draw his warrant for said sums out of any money in the treasury not otherwise appropriated.

63 Appropriation; Division of Aeronautics. The sum of \$894 is hereby appropriated for the fiscal year ending June 30, 1993, to the division of aeronautics for the payment of the outstanding balance from the transfer of in-ground fuel and filters at Skyhaven Airport. This appropriation is in addition to any other sums appropriated to the division of aeronautics for fiscal year 1993. The governor is authorized to draw his warrant for said sum out of any moneys in the treasury not otherwise appropriated.

64 Postsecondary Technical Education; Percentage of Collection Contracts. For the biennium ending June 30, 1993, the department of postsecondary technical education is hereby authorized to enter into percentage of collection contracts for past due tuition, fees, and/or loan accounts.

65 Department of Education; Office of the Commissioner. Amend PAU 06, 03, 01, 01, 01 as inserted by 1991, 312:1 as follows:

I. By inserting in class 93, footnote F.

II. By amending class 91 footnote *** to read as follows:

*** This appropriation shall only be used for the continuation in FY 1992 of statewide testing at grades 4, 8, and 10 using the currently administered [cat] **California Achievement Test**. **Any funds remaining in class 91 on or after January 15, 1992, shall be transferred to PAU 06-03-01-01-01, class 93.**

66 Department of Education; Fair Hearings Unit. Amend PAU 06, 03, 01, 03, 02 as inserted by 1991, 312:1 as follows:

	FY 92	FY 93
Insert:		
30 Equipment New/Replacement	10,013	0
Insert:		
91 Depositions	7,500	0
Strike Out:		
Total	149,645	155,895
Insert in place thereof:		
Total	167,158	155,895
Strike out:		
General Fund	149,645	155,895
Insert in place thereof:		
General Fund	167,158	155,895
67 Department of Education; Special Education. Amend PAU 06, 03, 03, 06, 01 as inserted by 1991, 312:1 as follows:		
Strike out:		
92 Catastrophic cost	8,000,000	8,000,000
Insert in place thereof:		
92 Catastrophic cost	7,957,487	8,000,000
Strike out:		
Total	8,782,278	8,785,526
Insert in place thereof:		
Total	8,739,765	8,785,526
Strike out:		
General fund	8,782,278	8,785,526
Insert in place thereof:		
General fund	8,739,765	8,785,526

68 Department of Education; Division of Vocational Rehabilitation; Rehabilitation Services; Field Programs; 1992-93 Funding Increased. Amend PAU 06, 03, 05, 03, 02 as inserted by 1991, 312:1 as follows:

		FY 92	FY 93
Strike out:			
41 Audit fund set aside	D	7,122	7,640
90 Rehabilitation services		<u>4,184,405</u>	<u>4,820,150</u>
Total		7,210,928	7,859,355
Estimated source of funds for field programs - match			
00 Federal funds		5,552,415	5,973,110
General fund		<u>1,658,513</u>	<u>1,886,245</u>
Total		7,210,928	7,859,355
Insert in place thereof:			
41 Audit fund set aside	D	7,440	8,437
90 Rehabilitation services		<u>4,420,098</u>	<u>5,405,717</u>
Total		7,446,939	8,445,719
Estimated source of funds for field programs - match			
00 Federal funds		5,665,362	6,349,896
General fund		<u>1,781,577</u>	<u>2,095,823</u>
Total		7,446,939	8,445,719

69 Department of Education; Division of Vocational Rehabilitation; Services for the Blind; Vending Stands; 1992-93 Funding Increased. Amend PAU 06, 03, 05, 04, 03 as inserted by 1991, 312:1 as follows:

		FY 92	FY 93
Strike out:			
41 Audit fund set aside	D	213	223
90 Rehabilitative services		<u>16,276</u>	<u>24,317</u>
Total		220,968	231,241
Estimated source of funds for Vending stands			
00 Federal funds		170,146	175,743
01 Other agency funds		23,431	23,440
General fund		<u>27,391</u>	<u>32,058</u>
Total		220,968	231,241
Insert in place thereof:			
41 Audit fund set aside	D	233	253
90 Rehabilitative services		<u>36,276</u>	<u>54,317</u>
Total		240,988	261,271
Estimated source of funds for Vending stands			
00 Federal funds		188,379	195,961

01 Other agency funds	23,431	23,440
General fund	<u>29,178</u>	<u>41,870</u>
Total	240,988	261,271

70 Department of Education; Division of Instruction; Vocational Education-State; 1992-1993 Funding Decreased. Amend PAU 06, 03, 03, 05, 01 as inserted by 1991, 312:1 as follows:

	FY 92	FY 93
Strike out:		
90 Area vocational school		
tuition and trans	\$3,500,000	\$3,500,000
Insert in place thereof:		
90 Area vocational school		
tuition and trans	3,227,000	3,500,000
Strike out:		
Total	4,156,176	4,106,450
Insert in place thereof:		
Total	3,883,176	4,106,450
Strike out:		
General fund	4,156,176	4,106,450
Insert in place thereof:		
General fund	3,883,176	4,106,450

71 Division of Mental Health and Developmental Services; Community Residences. Other provisions of law notwithstanding, for the fiscal year ending June 30, 1992, the division of mental health and developmental services, is hereby authorized to utilize in PAU 05, 01, 05, 03, 03 community residences, with fiscal committee and governor and council approval, up to \$1,700,000 in federal revenue earned in excess of \$4,000,000 for services provided to residents of the intermediate care facility and in excess of \$10,400,000 for services provided to residents of the acute psychiatric facility.

72 Veterans' Home. Notwithstanding any other provision of law, if actual revenue received from funding sources is less than the amount estimated for PAU's 05, 02, 01 and 05, 02, 02, the total appropriation for the veterans' home shall not be reduced and shall be available for expenditure as budgeted.

73 Department of Education; Vocational Education-State. Position number 30382 funded in fiscal years 1992 and 1993 by PAU 06, 03, 03, 05, 01 shall be exempt from any executive order of the governor relating to vacant positions and the 90-day drag on vacant positions by the fiscal committee beginning in October, 1991. Any funds transferred from PAU 06, 03, 03, 05, 01 to the department of administrative services as a result of positions made vacant under executive order of the

governor or the 90-day drag in fiscal years 1992 and 1993 shall be restored to PAU 06, 03, 03, 05, 01 as those positions are filled after the effective date of this section.

74 Division of Human Services; Support Enforcement Positions. The positions funded in fiscal years 1992 and 1993 by PAU 05, 01, 04, 02, 03 shall be exempt from the provisions of 1991, 355:124 relative to vacant positions. Any funds transferred from PAU 05, 01, 04, 02, 03 to the department of administrative services as a result of positions made vacant under 1991, 355:124 in fiscal years 1992 and 1993 shall be restored to PAU 05, 01, 04, 02, 03 as those positions are filled after the effective date of this section.

75 Department of Health and Human Services; Office of the Commissioner. The position number 12341 funded in fiscal years 1992 and 1993 by PAU 05, 01, 01, 02, 01 shall be exempt from the provisions of 1991, 355:124 relative to vacant positions. Any funds transferred from PAU 05, 01, 01, 02, 01 to the department of administrative services as a result of positions made vacant under 1991, 355:124 in fiscal years 1992 and 1993 shall be restored to PAU 05, 01, 04, 02, 03 as those positions are filled after the effective date of this section.

76 Transfer from Department of Education to Division of Mental Health and Developmental Services. At the close of business on the last day of the month of the effective date of this act, all funds and positions, including positions numbered 19179, 19180, 19181, 19182, 19183, and incumbents, within PAU 06, 03, 03, 06, 05 (infant and toddler program) within the department of education for fiscal years 1992 and 1993, which have not been expended, shall be transferred to new PAU 05, 01, 05, 03, 09 (infant and toddler program) within the department of health and human services, division of mental health and developmental services, in order to carry out the provisions of Executive Order 91-7. Existing encumbrances and obligations established under the department of education's internal accounting control system within PAU 06, 03, 03, 06, 05 shall also be transferred to the division of mental health and developmental services, PAU 05, 01, 05, 03, 09, as encumbrances.

77 Authority to Reinstate Fiscal Year 1991 Positions. 1991, 312:10 is repealed and reenacted to read as follows:

312:10 Authority to Reinstate Certain Fiscal Year 1991 Positions.

I. The executive head of a department or agency, upon the prior approval of the fiscal committee and the governor and executive council, may reinstate a position which was authorized for that department or agency at any time during fiscal year 1991. The fiscal committee may approve the reinstatement only if:

(a) Another position or positions within the department or agency which are funded with an approximate equivalent appropriation amount are abolished at the same time the fiscal year 1991 position is reinstated.

(b) Such position is funded within the permanent personal services appropriations for the department or agency making the request. Under no circumstances shall a department or agency be permitted to request transfers from funds and accounts to increase the personal services appropriations for that department or agency in the fiscal year 1992-93 operating budget for the purposes of this section.

(c) No position shall be reinstated if such reinstatement would supercede the provisions of the vacancy drag on vacated positions adopted by the fiscal committee, unless exempted from this subparagraph by the fiscal committee.

II. The authority of departments and agencies to reinstate positions under paragraph I of this section shall expire on June 30, 1993.

78 Department of Resources and Economic Development; Parks-Sunapee. Amend PAU, 03, 03, 05, 03 as follows:

	FY 92	FY 93
Insert:		
11 Personal services - unclassified	0	36,000
Strike out:		
59 Part-time benefited	158,000	158,000
Insert in place thereof:		
59 Part-time benefited	158,000	122,000
79 New PAU; Bridge Maintenance Bureau; Cheshire Bridge.		
Amend 1991, 312:1 for fiscal year 1993 by inserting after PAU 04, 01, 02, 02, 02 the following new PAU:		
04 Transportation		
01 Department of transportation		
02 Operations division		
02 Bridge maintenance bureau		
03 Cheshire bridge		
		FY 93
20 Current expense		9,000
23 Heat, electricity and water D		2,000
30 Equipment		1,000
44 Debt service		225,000
50 Personal services - other		55,000
60 Benefits		4,400
70 In-state travel		600
91 Transfer bridge maintenance		500

92 Transfer district 4 maintenance	7,500
93 Transfer turnpike adm. overhead	<u>5,000</u>
Total	310,000
Estimated source of funds for	
Cheshire bridge	
09 Agency income	I
	<u>310,000</u>
Total	310,000

80 Department of Transportation, Special Retirement. Amend PAU
04, 01, 07, 01 for fiscal year 1993 as inserted by 1991, 312:1 as follows:
FY 93

Strike out:

96 Hospitalization GRP life ins.	<u>2,553,348</u>
Total	2,555,025
Estimated source of funds for	
special retirement	
Highway funds	<u>2,555,025</u>
Total	2,555,025

Insert in place thereof:

96 Hospitalization GRP life ins.	<u>2,953,348</u>
Total	2,955,025
Estimated source of funds for	
special retirement	
Highway funds	<u>2,955,025</u>
Total	2,955,025

81 Contingency. If HB 677-FN of the 1992 legislative session, an act establishing a 2-year pilot program in Rockingham county eliminating the trial de novo system in misdemeanor cases, becomes law, the appropriations made in PAU's 02, 01, 04 and 02, 01, 06 as inserted by section 1 of this act shall take effect at 12:01 a.m. of the effective date of HB 677-FN. If HB 677-FN does not become law, the appropriations in PAU's 02, 01, 04 and 02, 01, 06 as inserted by section 1 of this act shall not take effect.

82 Personal Services Limitation; Department of Health and Human Services; Division of Mental Health and Developmental Services; New Hampshire Hospital. Notwithstanding any other provision of law, for the fiscal year ending June 30, 1993, the department of health and human services, division of mental health and developmental services, is hereby authorized to utilize all available permanent personal services appropriations in PAU's 05, 01, 05, 06, 01 through 05, 01, 05, 06, 08 to support currently authorized positions as determined by the legislative budget assistant, and is authorized to transfer funds between and among permanent personal services within these PAU's upon the approval of the fiscal committee and governor and council.

83 Estimates of Unrestricted Revenue. 1991, 312:28 is repealed and reenacted to read as follows:

312:28 Estimates of Unrestricted Revenue.

	FY 92	FY 93
GENERAL FUND		
Beer	\$11,500,000	\$ 11,500,000
Board and care	19,000,000	21,000,000
Medicaid hospital reimbursement	156,000,000	164,000,000
Business profits tax	78,000,000	80,000,000
Estate and legacy tax	23,500,000	25,000,000
Insurance	43,000,000	44,000,000
Interest and dividend tax	34,000,000	35,000,000
Liquor	64,000,000	67,000,000
Meals and rooms tax	91,000,000	94,000,000
Parks income	3,500,000	3,500,000
Dog racing	5,000,000	4,700,000
Horse racing	3,500,000	4,300,000
Real estate transfer tax	34,000,000	28,000,000
Communications tax	26,000,000	27,000,000
Cigarette tax	39,500,000	39,000,000
Utilities	23,000,000	24,000,000
Other	37,000,000	38,100,000
Courts	20,000,000	21,000,000
Savings bank tax	<u>8,000,000</u>	<u>9,000,000</u>
Total	\$719,500,000	\$740,100,000
	FY 92	FY 93
HIGHWAY FUND		
Gasoline Road Toll	\$ 94,060,000	\$ 96,875,000
Motor Vehicle Fees	53,520,000	54,540,000
Miscellaneous	<u>8,450,000</u>	<u>8,450,000</u>
Total	\$156,030,000	\$159,865,000
	FY 92	FY 93
FISH AND GAME FUND		
Fish and Game Licenses	\$ 5,868,700	\$ 6,015,400
Fines and Penalties	85,000	85,000
Miscellaneous Sales	491,500	491,500
Indirect Costs	<u>50,000</u>	<u>50,000</u>
Total	\$ 6,495,200	\$ 6,641,900

84 Budget Reductions Not Affected. Any budget reductions made by state agencies and departments affecting 1991, 312 shall not be affected by the provisions of this act.

85 Adjustment of Amounts, Figures, Estimates and Totals. The commissioner of administrative services shall adjust all amounts, figures, estimates and totals for 1991, 312, the 1992-1993 operating budget, as made necessary by the passage of this act.

86 Effective Date. This act shall take effect upon its passage.

*Conferees on the Part
of the Senate*

Sen. Dupont, Dist. 6

Sen. Blaisdell, Dist. 10

Sen. Hough, Dist. 5

Rep. C. Brown, Graf. 13

Rep. Chambers, Graf. 12

Senator Hough moved to refuse to adopt the Committee of Conference.

*Conferees on the Part
of the House*

Rep. Gross, Merr. 16

Rep. Hager, Merr. 21

Rep. Burns, Coos 5

SENATOR SHAHEEN: Senator Hough, are you requesting this based on the House vote on HB 1026?

SENATOR HOUGH: I don't think that there is any question in anyone's mind that there are "miles to go before we sleep."

SENATOR SHAHEEN: Thank you.

Adopted.

Senator Hough moved to discharge the Committee of Conference and request a new Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as new members of said Committee of Conference:

SENATORS: Dupont, Blaisdell, Hough.

Alternates: W. King, Delahunt.

HB 740-FN, relative to increasing political expenditure limitations for certain candidates and relative to the penalty for exceeding total expenditure limitations.

Senator Bass moved to refuse to adopt the Committee of Conference.

Adopted.

Senator Bass moved to discharge the Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said new Committee of Conference:

SENATORS: Bass, Nelson, Roberge.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a new Committee of Conference on the following entitled Bill:

HB 1344-L, requiring the house environment and agriculture and the senate environment committees to review the laws relative to solid waste management.

The Speaker, on the part of the House of Representatives, has appointed as members of said new Committee of Conference:

REPRESENTATIVES: P. Bean, C. Brown, E. Greene, M. Chambers.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a new Committee of Conference on the following entitled Bill:

HB 1396-FN, authorizing municipalities to incur debt in the form of bonds guaranteed by the state of New Hampshire to assist municipalities, towns, cities, counties or districts to close landfills and to clean up hazardous waste sites.

The Speaker, on the part of the House of Representatives, has appointed as members of said new Committee of Conference:

REPRESENTATIVES: B. Gage, R. Porter, C. Brown, M. Chambers.

HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a new Committee of Conference on the following entitled Bill:

HB 1138, relative to the board of trust company incorporation's consideration of petitions for incorporation of savings banks.

The Speaker, on the part of the House of Representatives, has appointed as members of said new Committee of Conference:

REPRESENTATIVES: B. Packard, R. Krueger, A. Syracuse, W. Tsiros.

Recess.

Out of recess.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled Bills:

HB 264-FN-A, placing hazardous waste transporter permit application fees in the hazardous waste cleanup fund.

HB 497-FN-A, relative to an equipment challenge grant program for vocational and technical education programs.

HB 601-FN-A, establishing a public water access advisory board and a statewide public boat access program and continually appropriating a special fund for the purposes of the program and creating a new class of highways for access to public waters.

HB 646-FN, relative to the disposal of certain solid waste products and leaf and yard waste.

HB 675-FN, relative to DWI penalties while operating a motor vehicle, OHRV, or boat or while transporting a child.

HB 689-FN, relative to implied consent and administrative motor vehicle license suspension.

HB 758-FN, relative to the right to privacy act.

HB 778-FN, relative to the laws against discrimination.

HB 1005, relative to the reapportionment of house districts within cities and the election of delegates to state party conventions.

SENATOR COLANTUONO: Just briefly, I would like to explain Senate Resolution 7. Some of you may remember reading in the newspapers about this cross-burning incident in Litchfield and in my district. I have had the occasion to meet the family. It was a terrible thing to happen and so I thought that it would be appropriate for this body to go on record against it. I was going to speak to it a little more, but given the late hour, I would just like to say that the resolution speaks for itself and I hope that you will support it.

Senator Colantuono offered a Resolution.

SR 7

STATE OF NEW HAMPSHIRE

In the year of Our Lord one thousand
nine hundred and ninety-two

A RESOLUTION

condemning a recent cross-burning incident.

Whereas, in mid-December, 1991, an unknown person or persons placed a 5-foot cross on the front lawn of the Litchfield residence of Jerome and Patricia Taylor and their children and set it ablaze; and

Whereas, the Taylor family is black, and thus the incident appears to have been racially motivated; and

Whereas, the burning of a cross throughout this nation's history has come to symbolize racial hatred, bigotry and intolerance; and

Whereas, all good citizens of New Hampshire should abhor every act of racial hatred and violence, and should stand in solidarity with the Taylors and all other victims of such acts; now, therefore, be it

Resolved by the Senate:

That this body condemns acts of hatred, racism, and violence and considers these vicious acts as acts against all the citizens of the state of New Hampshire; and

That this body is proud of the support shown to the Taylors by neighbors, friends, and strangers, from the Litchfield community and across the state; and

That it is the hope of this body that the perpetrators of the Taylor cross-burning incident are caught as soon as possible and brought to justice under law; and

That copies of this resolution be forwarded by the senate clerk to the president of the senate, the speaker of the house, the governor, and the Taylors.

Adopted by the necessary 2/3 vote.

SUSPENSION OF THE RULES

Senator Hough moved that the rules of the Senate be so far suspended as to allow for a resolution to be introduced after the deadline and to further suspend the Senate Rules to dispense with Reference to Committee the Printing of the Legislation, the Holding of a Public Hearing, and a Committee Report in the calendar and that the resolution be on second reading at the present time.

SENATOR HUMPHREY: Mr. President, what is the effect if the Senate adopts this resolution?

SENATOR DUPONT (In the Chair): Senator, our statutes require the executive council or the executive, and I assume, the council which has taken a vote on this already, and the legislature to vote the factfinder's report up or down. So it is necessary for us to take action on this one way or the other.

SENATOR HUMPHREY: If the Senate approves this resolution, is it then binding on the state?

SENATOR DUPONT (In the Chair): Senator, the resolution would go over to the House and the House would take action on it. Then at that point, if it is successful in passing the House, it does not have the effect of law at that point, but there has been an affirmative action, and I guess, the responsibility of the legislature would then be to fund this pay raise and accept the agreement.

SENATOR HUMPHREY: If the Senate declines to approve this resolution, then what further process ensues with respect to this conflict?

SENATOR DUPONT (In the Chair): Senator, all that I can tell you is that the RSAs require us to take action. So it is our legal counsel's advice that one way or the other, we have to take action. It could potentially have been done as part of another piece of legislation, rather than a resolution, but because of when the factfinder's report got here, it has not been addressed till this point.

SENATOR HEATH: Before we go on with the vote on the suspension of the rules, are we going to be handed the factfinder's report so that we can read it?

SENATOR DUPONT (In the Chair): Yes. I believe that it was passed out to you already. It was passed out with the resolution.

Adopted.

SENATOR HOUGH: You have before you SCR 13, which accepts the factfinder's report recommendations relative to the contract negotiations between the state employees association and the state of New Hampshire. It is a very simple, straight-forward concurrent resolution that will affirm this body of the legislatures position in support of the factfinder's report as the President has indicated. There is a statutory committee under the provisions of RSA 273-A, 9, which has met and discharged its duties, and is submitting to the legislature under this format, an opportunity to accept or reject the factfinder's report. You also have in front of you, the factfinders report dated March 27, 1992. At the bottom of it you will see section 92, the party should agree to a zero salary increase for FY 1992 and a four percent increase for FY 1993 beginning July 1, 1992. Then section 19.8, parties should agree to the health insurance plan with office deductibles as follows: a single person \$100 maximum, two person, \$100 per person and \$200 maximum; family \$100 per person and \$500 maximum. Now that is really what you have before you. You have to understand that the state employees who are unquestionably your most dedicated people in the state of New Hampshire have gone since 1990 without any incremental adjustment in their wages. We put together a biennial budget that crafted a mechanism whereby the parties would meet during the summer and report back last fall. That was failed and flawed public policy. They have continued to negotiate in good faith on the part of the employees and in questionable good faith on the part of the state negotiator, in my point of view. I qualify that, from my point of view. We are now at a point in time where we recognize the step one in breaking the health insurance contracts which we negotiated with the state employees back in the early 70's, Senator McLane, when the cost of health insurance was minimal and we choose not to recognize the good efforts with salary increases. Once a gain has been gained, it cannot be

arbitrarily or capriciously stripped from them. It has to be negotiated out. This four percent salary adjustment is a modest move forward and it is offset by the deductibles that a number of people in this body feel that the health insurance for public employees ought to have and it will allow us to act in good faith and move forward. I would remind you that in the fall this year, we will begin again, a new negotiation for the up-coming biennium. This resolution does not have the effect of law. It does not appropriate money and it does not require the Governor's signature. It positions this body as speaking in support of the state employees and it encourages the state employees and the state negotiator to continue at the table to arrive at a resolution of this collective bargaining effort on the behalf of the employees in the state. I would encourage you to support this with an affirmative vote and send it to the other body and allow them to speak on behalf of the state employees also. I think the message is clear. We know exactly what is before us. We know exactly what we are doing when we vote for or against this resolution. I would be happy to answer anyone's questions. But again, the hour is late; we can stay and I will entertain any questions as they come, but ultimately, we should vote on this. I would hope that you would vote positively in support of the dedicated state employees.

Senator Hough offered the following resolution

SCR 13

STATE OF NEW HAMPSHIRE

In the year of Our Lord one thousand
nine hundred and ninety-two

A RESOLUTION

accepting the factfinder's report and recommendations relative
to contract negotiations between the State Employees
Association and the state of New Hampshire.

Whereas, between November and December 1991, Mr. Bruce Fraser served as mediator in the ongoing contract negotiations between the State Employees Association and the state of New Hampshire; and

Whereas, upon conclusion of his mediating duties, Mr. Fraser prepared a factfinder's report and recommendations dated March 27, 1992; now, therefore, be it

Resolved by the Senate, the House of Representatives concurring:

That the general court accepts Mr. Bruce Fraser's factfinder's report dated March 27, 1992, and the recommendations made therein.

SENATOR HUMPHREY: Senator Hough, you have cited RSA 273 and I have looked at that and I don't see any reference to the obligation or to the duty of the Senate to accept or to reject or even consider a factfinder's report, so my question would be pursuant to what law is this resolution before us?

SENATOR HOUGH: If you go down to roman numeral V(a) you will see the delineation of a committee, correct?

SENATOR HUMPHREY: Yes.

SENATOR HOUGH: Then you go to the following section c and it says, "shall submit any recommendation on such agreement or reports to the members of the House and the Senate". I am answering your question on the advice of the counsel who gives me the interpretation that the committee must present a recommendation to the body. They are required to hold a hearing on their report and then to make a recommendation to the House and the Senate. The Rules committee of the Senate felt that by a 3 - 2 vote that the proper recommendation to this body would be in the form of a Senate Concurrent Resolution and the Senate Concurrent Resolution that was adopted by the Rules committee is to accept, as opposed to reject, the factfinder's report and that is what you have before you and that is the vote.

SENATOR HUMPHREY: Thank you for your response. Has the bargaining unit rejected this report, this recommendation, factfinder's recommendation?

SENATOR HOUGH: The bargaining unit?

SENATOR HUMPHREY: Yeah, for the state employees?

SENATOR HOUGH: The state employees have voted positively to accept the factfinder's report. The state negotiator, through the action of the executive council have voted to reject it. That leaves us at a point where we have a legislative committee that has met and this is the format under which we have submitted it to the body for their disposition.

SENATOR HUMPHREY: What is the Governor's position on this matter? The Governor being the person appointed to negotiate on behalf of the state?

SENATOR HOUGH: The Governor and the executive council have rejected the factfinder's report. That is my understanding of their action.

SENATOR DUPONT (In the Chair): That is correct. They have rejected it.

SENATOR HUMPHREY: Recognizing that this is a resolution and is not binding, what is the practical effect or effect of any kind of adoption of this resolution?

SENATOR HOUGH: I am of the opinion, Senator Humphrey, that the practical effect of passing a positive Senate Concurrent Resolution states clearly and decisively that the legislature recognizes that the negotiations have not come to a favorable conclusion and are supportive to the state employees and have required them to return to the table with a negotiator so that this can be brought to a conclusion, and we can move forward in the state of New Hampshire in regard to our state employees and their pay package and in regard to our state employees and their health insurance package.

SENATOR HUMPHREY: I am sorry, Senator, you confused me on that last one. The Governor has rejected this factfinder's report and recommendations, is that correct?

SENATOR HOUGH: That is my understanding. The Executive Council and the Governor has rejected the factfinder's report.

SENATOR HUMPHREY: The affect then, if the Senate now adopts this report is what?

SENATOR HOUGH: We are accepting the factfinder's report in principle and putting the Senate on record as being either supportive of the factfinder's report as it was presented both to the Governor and Executive Council and to the membership. You can vote one of two ways.

SENATOR HUMPHREY: Thank you, Senator. In other words, the Senate on behalf of . . . is this coming from a committee? Is that what the deal is here?

SENATOR DUPONT (In the Chair): No, it is not, Senator.

SENATOR HOUGH: This was allowed in under the Rules Committee and offered by one person.

SENATOR HUMPHREY: Senator Hough is asking the Senate to go on record in opposition to the Governor's position?

SENATOR HOUGH: Senator Hough . . . if that is the question that was proposed, I will answer it. Senator Hough is simply introducing and sponsoring a Senate Concurrent Resolution that is straightforward in support of the factfinder's report as it relates to the state employees, their pay package and their medical benefit package. A simple statement of position.

SENATOR HUMPHREY: However evasive.

SENATOR BASS: Senator Hough, the recommendation 19.8, are those payments per year?

SENATOR HOUGH: Charlie, what . . .

SENATOR BASS: I am talking about this thing here. How does the dollar match up, is that \$100 a year.

SENATOR HOUGH: That is an annual deductible as I understand it, as it has been presented to me.

SENATOR BASS: And for what fiscal year?

SENATOR HOUGH: It would be July 1, 1993, excuse me, 1992, which is fiscal year 1992.

SENATOR BASS: Okay, thank you.

SENATOR MCLANE: I rise in strong support of the resolution before you. That isn't only because I am the legislator from Concord where many of the state employees reside, I was here in part of the negotiations in 1970 when it first become obvious, that instead of putting cold cash for state employees, that the state was going to literally borrow the money to make the agreement from Blue Cross Blue Shield. There has been no evidence presented over the years that state employees have misused the privilege of good health insurance; in fact, there are some studies that show that good health insurance is a good investment for employers because people show up for work. So that I would urge a yes vote on this resolution and in that way show accommodation for our state employees who over the years have gone with the economy and not taken an increase in salary again and again and again, starting in 1970. We have not been fair to them in all ways and this, I believe, is a good compromise.

SENATOR DISNARD: Senator McLane, I noticed that this is for two years. Thus a pay raise would be two percent a year. Do you think that that is unreasonable?

SENATOR MCLANE: No, I don't. I think that they deserve it and they earn it. They show up. And you are right, there hasn't been anything since 1990.

SENATOR HUMPHREY: Well, it is useful to translate percentages into dollars, I just spoke with the Governor's office and that figure equates to \$8,000,000.

SENATOR W. KING: I rise in support of this resolution. The fact is that the state employees have not seen a raise since 1990 which means that this is not a two percent a year pay raise, this is in fact a one percent a year pay raise. A very, very modest sum. On top of that it does address an issue that we were all concerned about during the last couple of years and that is the cost of health insurance. It asks them to bear part of the burden and that also is reasonable as

Senator Humphrey has said to us in the past. We have agreed, but we have said that it ought to go through the bargaining process, just as we always expect it to. Well here it has gone through the bargaining process and in fact, there is within the factfinder's report, a provision that will require them to pay part of the cost of medical insurance and indeed that will be a cost savings to the state. Now I don't know how much that offsets what Senator Humphrey has just talked about, but a one percent pay increase per year is modest. In fact, some of us ought to be embarrassed that that is all that we are able to do for the state employees who work so hard, but it is a reasonable compromise given the circumstances and the economy in the state of New Hampshire, and I urge you to vote for it.

SENATOR HEATH: Senator King, I preface my question with a statement. I haven't received a pay raise in this job for 14 years and Senator Blaisdell hasn't since 1872. But more importantly and seriously, there are many of our constituents who don't have a job to get a pay raise in. How is it that in these very tough times, and tougher times for the next legislative body, do you propose to give this, even if you feel that it is justifiable, which it may be in normal times? How do you propose to give this when there are so many people in your district and mine and all of the districts that are represented in this room that are unemployed, that are in pain of being unemployed, who are frightened about where they are going to get the money to pay for their mortgage on property that no longer represents the value of which their mortgages were set at? Have you no consideration for them?

SENATOR W. KING: Senator Heath, as I recall during the . . . and Senator Blaisdell might be able to correct me on this, but as I recall during the budget negotiations the last time around, we were talking about a \$250 deductible that would have saved the state \$46,000,000, as I recall. So if in fact I can just cut that in half or down to \$100, my guess is that what you will see is that this will yield a savings to the state in terms of the cost of the state employees. Even if it doesn't though, I don't think that we ought to be making that decision about what we are going to give the state employees for the last four years without a pay increase, strictly based on what is happening. Yes, there is a great deal of pain out there. We are all hopeful that things are starting to turn around, but the only way that you are going to see any kind of a change in health insurance benefits is if the state, meaning all of those of us in this chamber and other places are willing to give a little as well in order to make that negotiation possible. And so, in fact, I believe that it is going to be very close to a wash, ultimately.

SENATOR HEATH: Senator, that representing a significant amount of money, that factfinder's report, with a four percent increase aren't you realistically going to either have to take it out of the ordinary budget TAPE INAUDIBLE that are likely to appear or increase revenues to the state through further taxation?

SENATOR W. KING: Senator Heath, what I just said was that I believe that the answer to that is no. That in fact what will be saved through offering a different kind of medical insurance program with a deductible will more than offset the cost to the state.

SENATOR HEATH: It is your position that the deductible will discourage the use of the medical services?

SENATOR W. KING: One would hope that people will utilize medical services in a wise way. Specifically, in terms of preventive health care, but whether or not that abuse takes place will largely depend on the individual.

SENATOR HEATH: Senator, what you seem to be saying is that either they are using that medical service that starts at dollar one frivolously, or they can't afford that deductible and therefore won't use needed medical services. Which is it?

SENATOR W. KING: Senator Heath, I am afraid that you are incorrect there.

SENATOR HEATH: I am asking you. How can I be incorrect or correct?

SENATOR W. KING: What I am saying is that, in fact, the policy costs when you have a deductible are considerably less since you probably get your health insurance through your better-half, maybe you don't know that, but when you have a policy that has a deductible in it . . .

SENATOR HEATH: Cheap shot.

SENATOR W. KING: When you have a policy that has a deductible in it, the cost of that policy is considerably less and that is what we were figuring in when we talked about this previously.

SENATOR HEATH: Why, I guess I am trying to get the answer to my question—what brings down that cost? Is it that people don't avail themselves when they have to participate, they don't avail themselves as often, because they can't afford it, or because they have frivolously done it when it didn't cost them anything?

SENATOR W. KING: The insurance brings down that cost. If you would like a further explanation, I will yield to Senator Hough.

SENATOR HEATH: Based on what kind of motivational behavior does the insurance company do that?

SENATOR W. KING: I have never claimed to understand the motivation of an insurance company.

SENATOR HOLLINGWORTH: Senator King, doesn't it seem a bit inconsistent to you that while the Governor rejects the factfinder's report and is not willing to give the state employees an increase, he, last year gave his staff, his personal staff that works for him, the step increase, while we in the Senate and in the House were not allowed to give our staff that same increase?

SENATOR W. KING: Yes, indeed that does seem inconsistent.

SENATOR FRASER: Senator King, we received medicaid money back in November and December. If we had received the factfinder's report, let us say right after the first of the year rather than March 27, would we have funded this cost?

SENATOR W. KING: I believe that we would have, yes.

SENATOR ROBERGE: Senator Heath, and Senator Humphrey, would you believe that I am going to vote against this.

SENATOR HEATH: Do I have the opportunity to respond?

SENATOR ROBERGE: Sure.

SENATOR HEATH: All right, because otherwise I wouldn't yield and then you couldn't ask the question.

SENATOR ROBERGE: Not to worry, Senator Heath. Would you believe that I am going to vote against this measure and the reason that I am is because the people in my district don't have a job to get a raise, a lot of them and they are worried about what they are going to eat and where they are going to live and how they are going to support their families and I am not going to go home and tell them that I voted for a raise for the state employees when all of these troubles are out there. I am going to vote against this.

SENATOR HEATH: I would believe that, Senator.

SENATOR HUMPHREY: Well, I would start out by saying without any doubt the state employees do deserve a raise, but that isn't the first question to decide. The question is, can we afford to give them a raise? I suggest with deficits facing us in the next biennium of several hundred million dollars, and the possibility that we won't get any of these fairy-tale bailouts from Washington the next time around, that we have our work cut out for us. I think the Governor is right, I think, again, he is courageous and he is principled and he is right. He is taking an unpleasant position, but he is right and I think that we should back him up, especially those of us who are members of the same party. Let me point out that the state of New Hampshire

pays more for employee health benefits, pays more in the way of premiums for those insurance benefits than any state in the country. We are number one. I guess it would be on a per employee basis, the dollars that we lay out for employee insurance. This savings which the factfinder has recommended, while a step in the right direction, are picky. He is suggesting a \$100 deductible in the case of a single person, \$200 maximum in the case of two people covered by the same policy and so on. If you take the average family of three and you assume a deductible of \$300 a year, you multiply that by 8,000 employees approximately and the savings is \$2,400,000, which in comparison with our outlays for these premiums every year are very, very small savings indeed and don't come close to offsetting the four percent in salary that is recommended.

SENATOR HOLLINGWORTH: Senator Humphrey, this factfinder, as I am lead to believe, was agreed upon by both the Governor and the state employees, is that not so?

SENATOR HUMPHREY: No, a number of people have said to the contrary and I just checked with the Governor's Office. The Governor and the Council have rejected the factfinder's report.

SENATOR HOLLINGWORTH: I am not talking about the report, I am saying that the factfinder was agreed to by both the state employees and by the Governor, to go to the factfinder?

SENATOR HUMPHREY: I don't know, I suppose so.

SENATOR HOLLINGWORTH: What are we to do then, wait until a factfinder comes in with a report that the Governor likes and then accept that?

SENATOR HUMPHREY: No. I think that we should wait for the factfinder to come in with a report which the Senate, in its infinite wisdom, finds affordable.

SENATOR MCLANE: Senator Humphrey, you gave a statistic that the state employees have the highest of medical insurance of any state in the country and I wonder if that takes into consideration one of the pay of those state employees. As we have said, it is a balancing act; but secondly, the fact that New Hampshire, per person, has fewer state employees than almost any other state. So I wonder if your statistics are somewhat skewed by those two facts?

SENATOR HUMPHREY: Well, what I said regarding the medical cost was that the state pays a higher medical insurance premium than any other state and I don't know where we stand on a number of state employees per capita. I don't think that we are anywhere near the bottom on that score, but I don't know, that is my impression.

Senator Blaisdell moved the question.

Adopted.

Question is on the adoption of SCR 13.

A roll call was requested by Senator Hough.

Seconded by Senator Blaisdell.

The following Senators voted Yes: W. King, Fraser, Hough, Disnard, Blaisdell, Bass, Pressly, Nelson, McLane, J. King, St. Jean, Shaheen, Hollingworth, Cohen.

The following Senators voted No: Heath, Roberge, Colantuono, Podles, Humphrey, Russman.

Yeas 14

Nays 6

SCR 13 is adopted.

Ordered to third reading.

HOUSE MESSAGE

The House has refused to adopt the recommendation of the Committee of Conference to which was referred the following entitled Bill:

HB 1211, permitting public employees to file an unfair labor practice complaint after a certain time without exhausting administrative remedies.

and the Committee of Conference has been discharged and request a new Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed a new Committee of Conference, naming:

REPRESENTATIVES: E. A. Robinson, S. Jasper, R. Hawkins, M. Hawkinson.

SENATE REFUSES HOUSE REQUEST

HB 1211, permitting public employees to file an unfair labor practice complaint after a certain time without exhausting administrative remedies.

Senator W. King moves to not appoint a new Committee of Conference.

Adopted.

SENATOR DUPONT (In the Chair): If I could have the attention of the members, yesterday I received a letter from the Community Task Force in Berlin that worked on the James River Project for the

community. They had previously sent me a letter thanking me for my efforts. This letter requested that I express to you, the full Senate, the appreciation of the Task Force for your support of HB 1054. I would just like to bring that to your attention, that they have just asked me to make you all aware of the fact that they appreciate your efforts as a body on HB 1054.

RESOLUTION

Senator Fraser moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that when we recess, we recess until Thursday, May 7, 1992 at 12:00 noon.

Adopted.

Recess.

Out of recess.

LATE SESSION

SCR 13, accepting the factfinder's report and recommendations relative to contract negotiations between the State Employees Association and the state of New Hampshire.

RESOLUTION

Senator Fraser moved that the Senate be in recess until Thursday, May 7, 1992 at 12:00 noon for the sole purpose of receiving House Messages and Enrolled Bill Reports.

Adopted.

Recess.

Out of Recess.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and Senate Bills and Resolutions:

HB 1164, relative to seaplanes operating on bodies of water in New Hampshire.

HB 1226, to protect the department of transportation against liability in the construction and maintenance of highways and highway bridges.

HB 1227, decreasing the bonding authorized relative to the Manchester access ramp project and repealing a provision relating to improvements on Gosling Road.

SB 348, establishing a committee to study the present and future needs of the correctional system.

SB 436, relative to the property tax exemption for the blind.

SJR 1, requiring the department of education to develop computer education guidelines for public schools.

HB 1124-L, allowing a town to apply certain rental welfare assistance payments to certain amounts owed to a town for the assisted person's landlord's delinquent water, sewer, electricity or tax payments and relative to interest rates on security deposits.

HB 1130, relative to ejecting persons from racetracks whose presence is inconsistent with proper conduct of a race meet, relative to unclaimed pari-mutuel pool tickets and extending the existing capital improvement and promotional fund for greyhound racetracks.

HB 1161, relative to the composition of the wetlands board.

HB 1238-FN, an act authorizing the reconstruction of the Route I-89 exits 18 and 20 interchanges in Lebanon.

HB 1254, an act relative to public employee labor relations board hearings.

HB 1283-FN, authorizing the human rights commission to award compensatory damages, levy administrative fines and award attorney's fees, and clarifying the jurisdiction of courts reviewing orders of the commission.

HB 1345, allowing off-sale licensees to advertise by signs and posters.

HB 1388, authorizing a civil penalty to be imposed in any proceeding in which a rule of a manufactured housing park owner is deemed unreasonable.

HB 1402-FN, an act relative to competitive bidding purchases of services from nonprofit organizations by certain state agencies for severely disabled or emotionally disturbed children.

HB 1434, an act requiring employers advertising for replacement workers during a strike to state such in any advertisement.

HB 1453-FN, establishing a study committee to review existing shellfish waters monitoring and closure procedures.

HB 1474-FN-A, an act relative to taxability of real estate transfers.

SB 306, allowing bonus payments in recognition of service during the Persian Gulf War.

SB 327, establishing a committee to study the effects of substance abuse on health care and economic costs of the state.

SB 346, relative to certain orders of protection and to certain restraining orders and requiring arrest for certain violations of such restraining orders and modifying the definition of household members.

SB 433, relative to the registration and equipment standards of motor vehicles known as street rods.

SB 446, authorizing construction of exit 10 on the Spaulding Turnpike from bonds previously authorized and changing the classification of the Salmon Falls Road in Rochester and Somersworth to class II.

LATE SESSION

Senator Delahunty moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until Thursday, May 7, 1992 at 12:00 noon.

Adopted.

Adjournment.

May 7, 1992

The Senate met at 12:00 noon

A quorum was present.

The prayer was offered by the Rev. David P. Jones, Senate guest Chaplain.

And you thought you were going to be able to slip quietly out of town. Sounds like the House isn't cooperating. I wonder what they're saying about you. Still, hopefully today will be the final mile you have to go before you sleep. Perhaps a little divinity would help around here this afternoon:

O Lord, thank you for not creating the world by conference committee. Thank you for not compromising when you made each one of us. Thank you that there are no "trailer bills" in your Kingdom. But thank you also for encouraging us who lead to learn how to cooperate and compromise as we seek to do your work. Amen

Senator Hollingworth led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled Bill:

HB 740-FN, relative to increasing political expenditure limitations for certain candidates and relative to the penalty for exceeding total expenditure limitations.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled Bill:

HB 1138, relative to the board of trust company incorporation's consideration of petitions for incorporation of savings banks.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled Bill:

HB 1344-L, requiring the house environment and agriculture and the senate environment committees to review the laws relative to solid waste management.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled Bill:

HB 1396-FN, authorizing municipalities to incur debt in the form of bonds guaranteed by the state of New Hampshire to assist municipalities, towns, cities, counties or districts to close landfills and to clean up hazardous waste sites.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled Bill:

SB 428-FN, designating segments of the Connecticut River for the rivers management program and allowing existing hydroelectric facilities to maintain operations.

HOUSE MESSAGE

The House has refused to adopt the recommendation of the Committee of Conference to which was referred the following entitled Bill:

HB 1399-FN, changing the name of the board of examiners of psychologists to the board of examiners of psychology and mental health practice, expanding such board, and certifying mental health counselors.

and the Committee of Conference has been discharged and request a new Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed a new Committee of Conference, naming:

REPRESENTATIVES: E. A. Robinson, P. Brown, K. Wadsworth, B. Baldizar.

SENATE ACCEDES

The Senate accedes to the request of the House of Representatives for a new Committee of Conference on the following entitled Bill:

HB 1399-FN, changing the name of the board of examiners of psychologists to the board of examiners of psychology and mental health practice, expanding such board, and certifying mental health counselors.

Senator Fraser moved to accede to the request of a Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: L. Fraser, B. Pressly, T. Colantuono.

HOUSE MESSAGE

The House has refused to adopt the recommendation of the Committee of Conference to which was referred the following entitled Bill:

HB 1026 relative to a companion bill to the supplemental budget.

and the Committee of Conference has been discharged and request a new Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed a new Committee of Conference, naming:

REPRESENTATIVES: C. Brown, H. Burns, S. Jasper, M. Chambers.

Alternates: D. Sytek, E. Hager.

SENATE ACCEDES TO REQUEST

The Senate accedes to the request of the House of Representatives for a new Committee of Conference on the following entitled Bill:

HB 1026, relative to a companion bill to the supplemental budget.

Senator Hough moved to accede to the request for a new Committee of Conference.

Adopted.

The President, on the part of the Senate, has appointed a new Committee of Conference, naming:

SENATORS: E. Dupont, R. D. Hough, C. Blaisdell.

Alternates: J. Delahunty, W. King.

HOUSE ACCEDES TO SENATE REQUEST

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

HB 1025-A, relative to budget adjustments for fiscal years 1992 and 1993.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: C. Gross, E. Hager, H. Burns, C. Brown, M. Chambers.

Alternates: M. Schotanus, D. Hall, T. Nardi.

COMMITTEES OF CONFERENCE REPORTS HOUSE BILLS

6207L

COMMITTEE OF CONFERENCE REPORT ON SB 428-FN

The committee of conference to which was referred Senate Bill 428-FN, An Act designating segments of the Connecticut River for the rivers management program and allowing existing hydroelectric facilities to maintain operations having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the bill by inserting after section 9 the following new section and renumbering the original section 10 to read as 11:

10 Reclassification. Notwithstanding RSA 483:15, VIII(l), the segment of the Connecticut River from Wheeler Stream to Paul Stream shall be designated as a natural river on January 1, 1993. Such natural river designation shall not apply to any entity or person who has filed an application with the department of environmental services for a solid waste landfill permit by December 31, 1992, unless such application is withdrawn or is finally denied and all appeals have been exhausted with respect to the application filed by December 31, 1992.

*Conferees on the Part
of the Senate*

Sen. Russman, Dist. 19

Sen. McLane, Dist. 15

Sen. Fraser, Dist. 4

*Conferees on the Part
of the House*

Rep. Dickinson, Carr. 2

Rep. Schotanus, Sull. 1

Rep. C. F. Buckley, Coos 2

Rep. Maviglio, Belk. 1

SENATOR OLESON: I think if I had several times to come in front of the Senate, had to express maybe over the past one way or another, I have achieved what I thought was best for my district. In this instance, I think I have failed them, I am blaming nobody but myself, I try to look back at where I made the mistakes. I do want to thank our good President, for the help that he has given me over the past, and the rest of the Senate that I have received from them. I blame nobody except myself and I will repeat that I think that I have failed my constituents, and I would like to be recorded as opposed to the bill. Even though I urge the rest of you to vote for it, and maybe this is the best they can. I have got enough English in me to understand that we are notorious for losing the battles, but winning the war. Maybe, this incidence is the case of this. I do want to thank the rest of the Senators, especially our good President, for the help that I have received in the past.

Senators Heath and Oleson in opposition to SB 428-FN.

Senator Russman moved to adopt the Committee of Conference Report.

Adopted.

6204L**COMMITTEE OF CONFERENCE REPORT ON HB 1396-FN**

The committee of conference to which was referred House Bill 1396-FN, An Act authorizing municipalities to incur debt in the form of bonds guaranteed by the state of New Hampshire to assist municipalities, towns, cities, counties or districts to close landfills and to cleanup hazardous waste sites having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing sections 3 and 4 with the following:

3 New Sections; Cleanup of Landfills, Hazardous Waste Sites and Solid Waste Sites. Amend RSA 149-M by inserting after section 24 the following new sections:

149-M:24-a Cleanup of Waste Sites; Priorities; Rulemaking.

I.(a) In addition to any other powers conferred upon cities, towns, districts and counties by this chapter or by RSA 147-B, cities, towns, districts and counties shall have the power to finance costs incurred for the closing and cleanup of landfills and other solid waste facilities and for the closing and cleanup of hazardous waste sites, excluding superfund sites, as provided in RSA 147-B. Considerations for determining priority for eligibility to incur debt in the form of bonds guaranteed by the state of New Hampshire for solid waste landfill closure and cleanup of hazardous waste sites shall be as follows, in order of highest to lowest priority:

- (1) Facility poses immediate risk to human health.
- (2) Facility poses potential risk to human health.
- (3) Facility with high level source of contamination identified.
- (4) Facility with surface water impact identified.
- (5) Facilities with approved closure plans ready for construction.
- (6) Facilities with closure plans that have been deemed complete.
- (7) Facilities for which hydrogeological investigations have been completed in accordance with an approved workscope and which have obtained a groundwater management permit and are actively engaged in the final design of the closure system.
- (8) Facility shows groundwater impact with no alternate water supply in area.
- (9) Facility shows high concentration of groundwater contamination with alternate water supply in area.
- (10) Facility shows low concentration of groundwater contamination with alternate water supply available.

(b) Project priority may be adjusted by the commissioner in consultation with the director of the division of waste management, when such adjustments are determined to be required to further protect public health and the environment.

II. If the amount of bonds authorized in a given year exceeds the annual bond limit, the department of environmental services shall recommend allocation of the bond guarantees based on the priority ranking system under paragraph I. The commissioner of environmental services shall adopt rules, pursuant to RSA 541-a, relative to the administration of this section.

149-M:24-b State Guarantee.

I. In view of the public benefits resulting from the proper closing of landfills and other solid waste facilities and for the closing and cleanup of qualifying hazardous waste sites, the governor and council are authorized in the name of the state of New Hampshire to guarantee unconditionally, but at no time in excess of the total aggregate sum for the entire state of \$30,000,000, the payment of all or

any portion, as they may find to be in the public interest, of the principal of and interest on any bonds or notes issued by any city, town, district or county for the closing and cleanup of any landfill or any other solid waste facility or the closing and cleanup of any hazardous waste site, excluding superfund sites, and the full faith and credit of the state are pledged for any such guarantee. The outstanding amount of principal and interest on such bonds and notes, the payment of which has been guaranteed by the state under the provisions of this section, shall at no time exceed the amount of \$30,000,000 as follows:

- | | |
|------------------------------|--------------|
| (a) Effective upon passage | \$15,000,000 |
| (b) For the biennium ending | |
| June 30, 1995, an additional | \$15,000,000 |

II. The state's guarantee shall be endorsed on such bonds or notes by the state treasurer, and all notes or bonds issued with the state guarantee shall be sold at public sealed bidding to the highest bidder. Any and all such bids may be rejected and a sale may be negotiated with the highest bidder. In the event of default in payment of any such notes or bonds, the state may recover any losses suffered by it in an action against a municipality or county, as provided in RSA 530, provided, further, that in accordance with RSA 35-A:29, the foregoing requirement for public sealed bidding shall not be applicable to any bonds or notes or both so guaranteed which are sold to the New Hampshire municipal bond bank, and any bonds or notes or both so guaranteed may be sold to the New Hampshire municipal bond bank at private sale in accordance with the provisions of RSA 35-A.

4 Effective Date. This act shall take effect upon its passage.

*Conferees on the Part
of the Senate*

Sen. W. King, Dist. 2
Sen. Shaheen, Dist. 21
Sen. Fraser, Dist. 4

*Conferees on the Part
of the House*

Rep. B. Gage, Rock. 20
Rep. Porter, Sull. 9
Rep. C. Brown, Graf. 13
Rep. Chambers, Graf. 12

AMENDED ANALYSIS

This bill authorizes the New Hampshire municipal bond bank to sell bonds guaranteed by the state of New Hampshire to assist municipal, town, city, county or district financing of the closing of landfills and the cleanup of hazardous waste sites and solid waste sites. The bonds would total \$30,000,000, \$15,000,000 appropriated upon passage of this bill and an additional \$15,000,000 for the biennium ending June 30, 1995. This bill excludes municipalities from the debt

limit under RSA 33 if borrowing for the purposes of this bill. The bill also establishes priorities for the closure and cleanup of sites.

Senator W. King moved to adopt the Committee of Conference Report.

Adopted.

6205L

COMMITTEE OF CONFERENCE REPORT ON HB 1344-LOCAL

The committee of conference to which was referred House Bill 1344-LOCAL, An Act requiring the house environment and agriculture and the senate environment committees to review the laws relative to solid waste management having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend RSA 33:3-f, I as inserted by section 2 of the bill by replacing it with the following:

I. The governor and council may award an unconditional state guarantee of the principal of and interest on bonds issued under RSA 33:3-e. The full faith and credit of the state shall be pledged for any such guarantees of principal and interest. The amount of the state guarantee available under this section shall not exceed the following principal amounts, plus interest:

(a) Effective upon passage \$25,000,000

(b) For the fiscal year 1995, an additional 25,000,000

Amend the bill by replacing section 3 with the following:

3 Effective Date. This act shall take effect upon its passage.

Conferees on the Part of the Senate

Sen. W. King, Dist. 2

Sen. Hough, Dist. 5

Sen. Shaheen, Dist. 21

Conferees on the Part of the House

Rep. Bean, Graf. 13

Rep. C. Brown, Graf. 13

Rep. E. Greene, Rock. 18

Rep. Chambers, Graf. 12

AMENDED ANALYSIS

This bill requires the house environment and agriculture and the senate environment committees to review the laws relative to solid waste management and to introduce legislation in the 1993 legislative session pertaining to the recodification of these laws.

This bill also authorizes the issuance of state guaranteed bonds to pay municipal cleanup costs for superfund hazardous waste sites. The amount awarded could not exceed \$20,000,000 per superfund site, with the cap on the bonding amount for all sites set at \$50,000,000 through fiscal year 1995.

Senator W. King moved to adopt the Committee of Conference Report.

Adopted.

6199L

COMMITTEE OF CONFERENCE REPORT ON HB 1138

The committee of conference to which was referred House Bill 1138, An Act relative to the board of trust company incorporation's consideration of petitions for incorporation of savings banks having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing section 1 with the following:

1 Consideration of Petition for Incorporation of Savings Bank. Amend the introductory paragraph of RSA 386-A:6 to read as follows:

Before acting on any petition, the board shall consider such evidence as may be presented by the petitioners and all other interested persons, firms and corporations, including members of the general public and shall keep a permanent record of such evidence. The petitioners shall submit to the board full information as to the identity and background of each person, firm or corporation who has subscribed to **3 percent or more of** the initial capital of the proposed bank, **including information on whether such person, firm or corporation held an equity interest of 3 percent or more in or served as a director or officer of a bank which has failed.** In making its decision on each petition, the board shall not take favorable action unless it determines that:

*Conferees on the Part
of the Senate*

Sen. Fraser, Dist. 4

Sen. Pressly, Dist. 12

Sen. McLane, Dist. 15

*Conferees on the Part
of the House*

Rep. B. Packard, Hills. 15

Rep. Krueger, Sull. 6

Rep. Syracuse, Rock. 26

Rep. Tsiros, Straf 2

AMENDED ANALYSIS

This bill requires petitioners for incorporation of a savings bank to submit to the board of trust company incorporation full information as to the identity and background of each person, firm or corporation who has subscribed to 3 percent or more of the initial capital of the proposed bank, including information on whether such person, firm or corporation has previously been involved held an equity interest in or served as a director or officer of a bank which has failed. The bill also requires the board to scrutinize the professional character and reliability of each applicant.

Senator Fraser moved to adopt the Committee of Conference Report.

Adopted.

6210L

COMMITTEE OF CONFERENCE REPORT ON HB 740-FN

The committee of conference to which was referred House Bill 740-FN, An Act relative to increasing political expenditure limitations for certain candidates and relative to the penalty for exceeding total expenditure limitations having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend RSA 664:5-b, I as inserted by section 1 of the bill by replacing it with the following:

I. For governor [and United States senator]:

(a) \$400,000 in a state primary election.

(b) \$400,000 in a state general election.

I-a. For United States senator:

(a) \$500,000 in a state primary election.

(b) \$500,000 in a state general election.

Amend the bill by replacing all after section 2 with the following:

3 New Subparagraph; Moneys from Fees Received by Secretary of State. Amend RSA 6:12, I by inserting after subparagraph (uu) the following new subparagraph:

(vv) The fees collected by the secretary of state under RSA 660:1 which shall be credited to the recount administrative account established under RSA 660:31.

4 New Subdivision; Depositing Fees in Recount Administrative Account. Amend RSA 660 by inserting after section 30 the following new subdivision:

Recount Administrative Account

660:31 Depositing Fees and Assessments. There is established in the state treasury a separate nonlapsing account to be known as the recount administrative account. The account shall be used by the secretary of state for the administration of recounts under RSA 660. Notwithstanding any other provision of law, all fees which are paid to the secretary of state under RSA 660:1 shall be credited to this account. All fees which are credited to this account shall be continually appropriated to the secretary of state.

5 New Section; Facsimile Transmissions. Amend RSA 664 by inserting after section 9 the following new section:

664:9-a Itemized Statements Filed by Facsimile Transmission. The sworn itemized statements required to be filed by a political committee or a candidate or on his behalf as required by RSA 664:6 and 664:7 may be filed by means of a facsimile transmission; provided, however, that a statement which is transmitted electronically or telephonically by a facsimile device shall also be filed by a political committee or a candidate or on his behalf not later than the last day of each filing period under RSA 664:6 and 664:7 if a facsimile transmission is used.

6 Supplemental Appropriation; Secretary of State. In addition to any other sums appropriated to the secretary of state for the fiscal year ending June 30, 1993, the following sums are hereby appropriated:

01 General government

05 Secretary of state

02 Elections division

59 Other personal services	*	\$ 24,667.50
60 Benefits		6,907.00
90 Financial reporting		<u>1,950.00</u>
Total		33,524.50
Estimated source of funds		
General fund		<u>33,524.50</u>
Total		33,524.50

*The secretary of state may hire personnel for the primary purpose of enforcing the election laws.

7 Effective Date. This act shall take effect upon its passage.

Conferees on the Part of the Senate

Sen. Bass, Dist. 11
Sen. Roberge, Dist. 9
Sen. Nelson, Dist. 13

Conferees on the Part of the House

Rep. Hager, Merr. 21
Rep. Holden, Hills. 9
Rep. Cowenhoven, Hills. 9
Rep. Nardi, Hills. 35

AMENDED ANALYSIS

This bill amends the law on political expenditure limitations by:

(1) Increasing the amount which candidates for United States Senator, representative to Congress, executive council, state senate, representative to the general court, and county office may spend in state primary and general elections.

(2) Increasing the fines assessed against all candidates for exceeding their total political expenditure limitations.

The bill places fees collected by the secretary of state under RSA 660 in a special account to be used for the administration of recounts.

The bill also allows candidates and political committees to use facsimile transmissions to file their expenditure reports with the secretary of state.

The bill makes a supplemental appropriation to the secretary of state for additional personnel to enforce the election laws.

Senator Bass moved to adopt the Committee of Conference Report.

SENATOR COLANTUONO: Has there been a change in the limits . . . ?

SENATOR BASS: Yes, there has.

SENATOR COLANTUONO: Could you explain what the changes and what the reason is?

SENATOR BASS: The committee of conference agreed to leave the limit of Governor at the present level. The reasoning was as follows; Gubernatorial elections occur every two years, they are not of National significance, and therefore, not subject to the influences by out-of-state interests primarily. It was generally felt that national political action committees didn't have as great a stake in the Gubernatorial election. Then a U.S. Senate election so the committee decided to leave the Gubernatorial at its existing level of \$400,000 or \$800,000 over all.

SENATOR COLANTUONO: In other words, as passed by the bodies that has kept intact is \$20,000 for the state Senate, and \$50,000 for Executive Council?

SENATOR BASS: Yes, everything else is the same.

Adopted.

Recess.

Out of recess.

SENATOR DELAHUNTY: During floor debate we heard you mention the current 15 hour days and the current process or the budget process for the past two weeks. We just want you to know that we as

a Senate, we realized that there have been a lot of other days that have involved 15 hour days, and you have been through a lot, and it has been a difficult process. We appreciate your patience, and your diligence, and your effort, and we are not always the easiest people to get along with. We want you to know that we as a body certainly have appreciated all of your efforts and your leadership for the past session, and we have a little token appreciation from the Senate and if we could, Senator Disnard.

SENATOR DISNARD: We also recognize the other side of the business, and family, and the hours that you give here.

SENATOR DUPONT: That is what you pay me the extra \$25 dollars a year for.

SENATOR DUPONT: Real quick speech, and I would not be telling the truth if I didn't admit that it has been a difficult couple of years. I will tell you that during my tenure in the Senate, that we have a group of individuals here that have worked harder than any group than I have ever worked with. Even those who may have disagreed with the direction that we have taken from time to time. It is not for the lack of effort, so I appreciate all of your support over the past couple of years, and certainly as we all move forward, hope that the times that we are facing are better than the ones that we leave behind. It has been a couple of difficult years, and I think that you have done an admirable job, as a result of all of your hard work. So I thank you, and I appreciate your support, and we will see if we can get us out of here today, so all of us can get on with the rest of our lives. Thank you.

6219L

COMMITTEE OF CONFERENCE REPORT ON HB 1399-FN

The committee of conference to which was referred House Bill 1399-FN, An Act changing the name of the board of examiners of psychologists to the board of examiners of psychology and mental health practice, expanding such board, and certifying mental health counselors having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend RSA 330-A:18 as inserted by section 10 of the bill by inserting after paragraph II the following new paragraphs:

III. A patient who has not had a basic physical examination within 6 months before the initial visit shall be encouraged to have a basic physical examination within the first 6 months of therapy. When the basic physical examination has indicated a physiological cause for the signs and symptoms that caused the patient to seek psychotherapy, the mental health practitioner shall consult quarterly with the consulting physician regarding the patient's treatment plan and progress and shall request any pertinent medical input from the physician regarding the patient.

IV. The board, after consultation with the board of registration in medicine, shall adopt rules within 12 months of the effective date of this act, pursuant to RSA 541-A, for persons certified under this chapter, regarding interdisciplinary collaboration about such issues as, but not limited to, psychopharmaceutical medications, chronic and severe mental illness, and long-term therapy.

Amend RSA 330-A:23, III as inserted by section 12 of the bill by replacing it with the following:

III. "Psychotherapist" means a psychologist, certified clinical social worker, [or] certified pastoral counselor, **certified mental health counselor, or certified marriage and family therapist** who performs or purports to perform psychotherapy. **This definition shall apply to advanced registered nurse practitioners licensed under RSA 326-B:10 as psychiatric nurse practitioners.**

*Conferees on the Part
of the Senate*

Sen. Fraser, Dist. 4

Sen. Pressly, Dist. 12

Sen. Colantuono, Dist. 14

*Conferees on the Part
of the House*

Rep. Robinson, Hills. 12

Rep. P. Brown, Graf. 11

Rep. Wadsworth, Graf. 13

Rep. Baldizar, Hills. 22

Senator Fraser moved to adopt the Committee of Conference Report.

Adopted.

Enrolled Bill Amendment to HB 411

Amend RSA 420-B:12, VI as inserted by section 3 of the bill by replacing line 1 with the following:

VII. An insurer issuing policies of group insurance shall allocate
Amend section 3 of the bill by replacing lines 2-4 with the following:

Organizations. Amend RSA 420-B:12 by inserting after paragraph V the following new paragraphs:

VI. No health maintenance organization shall, when issuing or Amend RSA 415:18, VII(g)(4) as inserted by section 6 of the bill by replacing line 14 with the following:

415:18, VII(g)(1) would have expired had the plan not been terminated, or until

Amend the bill by inserting after section 9 the following and renumbering the original section 10 to read as 11:

10 Contingency; Renumbering. If either SB 363 or SB 370 becomes law, RSA 420-A:7-e as inserted by section 8 of this act shall be renumbered to RSA 420-A:7-f, and RSA 420-B:8-e as inserted by section 9 of this act shall be renumbered to RSA 420-B:8-f. If both SB 363 and SB 370 become law, RSA 420-A:7-e as inserted by section 8 of this act shall be renumbered to RSA 420-A:7-g, and RSA 420-B:8-e as inserted by section 9 of this act shall be renumbered to RSA 420-B:8-g.

Senator Nelson moved adoption.

Adopted.

Enrolled Bill Amendment to HB 61-FN

Amend section 5 of the bill by replacing line 2 with the following: Victims' Assistance Fund. Amend 1989, 408:124 by inserting after paragraph

Amend paragraph II of section 6 of the bill by replacing line 1 with the following:

II. 1989, 408:82, I, relative to the repeal of the

Amend section 7 of the bill by replacing lines 1 and 2 with the following:

7 Effective Date Changed for 1992, 31. Amend 1992, 31:2 to read as follows:

Amend paragraph I of section 8 of the bill by replacing line 2 with the following:

12:02 a.m.

Senator Nelson moved adoption.

Adopted.

Enrolled Bill Amendment to HB 321-FN

Amend the title of the bill by replacing it with the following:

relative to small employer insurance and creating the position of life, accident and health actuary within the insurance department and making an appropriation therefor.

Amend section 2 of the bill by replacing lines 2 and 3 with the following:

chapter 420-E the following new chapter:

CHAPTER 420-F

Amend RSA 420-E:1-10 as inserted by section 2 of the bill by renumbering RSA 420-E:1-10 to read as RSA 420-F:1-10.

Amend RSA 420-F:8 as inserted by section 2 of the bill by replacing line 2 with the following:

all or any part of RSA 420-F:3 as to the premium rates applicable to one or

Amend the bill by replacing section 7 with the following:

7 Renumbering; Contingency. If SB 437-FN of the 1992 legislative session becomes law, RSA 420-F as inserted by section 2 of this act shall be renumbered to RSA 420-G and the reference to RSA 420-F:3 in line 2 of RSA 420-F:8 as inserted by section 2 of this act shall be renumbered as RSA 420-G:3.

8 Effective Date.

I. Sections 3-7 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect January 1, 1993.

Senator Nelson moved adoption.

SENATOR DISNARD: Does what we are doing add a new employee or is this part of the bill we already agreed on earlier?

SENATOR NELSON: Could you restate the question.

SENATOR DISNARD: What I am hearing from the President, the way he read this, and I understand what you are reading. What you just added, a new employee to this department, or was this already approved earlier?

SENATOR NELSON: This enrolled amendment, renumbers, and contiguously renumbers, in RSA chapter inserted by the bill to avoid duplication in numbering with chapters. It changes the title of the bill to reflect an appropriation.

SENATOR DISNARD: Thank you very much. I understand that.

Adopted.

Recess.

Out of recess.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and Senate Bills:

HB 505, relative to the normal yield tax, the extension of the reporting deadline for the study committee on clearcutting forest resources, the report of cut, and creating a committee to study forest protection and management.

HB 693, relative to forfeiture of items seized in connection with controlled drug offenses.

HB 1252, creating exceptions from and reciprocity for state water laboratory certification, clarifying the use of fees for certifying state water laboratories, and changing the special account into a special continuously appropriated revolving fund account.

HB 1287, enabling certain municipalities to issue tax lien redemption notes and relative to the transfer of tax liens.

SB 334, authorizing the division of public health services to carry out a rabies surveillance to identify and gauge the threat to the public's health and making an appropriation therefore.

Recess.

Senator Hough in the Chair.

6226L

COMMITTEE OF CONFERENCE REPORT ON HB 1026

The committee of conference to which was referred House Bill 1026, An Act relative to a companion bill to the supplemental budget having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing all after the enacting clause with the following:

1 Borrowing Money. Amend RSA 6:13, II to read as follows:

II. Unless otherwise provided by the governor and council, the treasurer shall have the authority to borrow at one time, or from time to time, up to the aggregate amount authorized by the governor and council under this section, and to determine the amounts, dates, maturities, and other details of each borrowing[, provided that each such indebtedness shall be repaid from revenues within one year].

2 Revenue Stabilization Reserve Account; Reference Point Changed to Biennium. Amend RSA 9:13-e to read as follows:

9:13-e Revenue Stabilization Reserve Account.

I. Notwithstanding the definition of "budget" in RSA 9:1, for purposes of this section the term "budget" means the operating budget in effect for the appropriate fiscal [year] **biennium**.

II. There is hereby established within the general fund general ledger a revenue stabilization reserve account. At the close of each fiscal [year] **biennium**, any surplus, as determined by the official audit performed pursuant to RSA 21-I:8, I(h) shall be transferred by the comptroller to a special nonlapsing revenue stabilization reserve account. The comptroller is hereby directed to establish said revenue stabilization reserve account in which to deposit all money received from any general fund operating budget surplus. The state treasurer shall invest funds in this account as authorized by RSA 6:8. The interest so earned shall be deposited as unrestricted general fund revenue.

III. In the event of a general fund operating budget deficit at the close of any fiscal [year] **biennium** as determined by the official audit performed pursuant to RSA 21-I:8, I(h), the comptroller shall notify the fiscal committee and the governor of such deficit and request that sufficient funds, to the extent available, be transferred from the revenue stabilization reserve account to eliminate such deficit. Such transfer may be made only when both of the following conditions have been met:

(a) A general fund operating budget deficit occurred for the most recently completed fiscal [year] **biennium**; and

(b) Unrestricted general fund revenues in the most recently completed fiscal [year] **biennium** were less than the budget forecast. The amount of said transfer shall not exceed a sum equal to the lower of the amount of the deficit in subparagraph (a) or the revenue shortfall in subparagraph (b). Upon receipt of approval from both the fiscal committee and the governor, the comptroller shall immediately transfer the sums so approved to the general fund surplus account.

IV. No available balance in the revenue stabilization reserve account shall be utilized for any purpose other than those authorized by paragraphs II and III, without the specific approval of 2/3 of each house of the general court and the governor.

V. If, after the requirements of paragraphs II-IV have been met and the balance remaining in the revenue stabilization reserve account is in excess of an amount equal to 5 percent of the actual general fund unrestricted revenues for the most recently completed fiscal year, then such excess shall be transferred, without further action, to the general fund surplus account.

3 Reclassification of Positions or Increases. RSA 21-I:56 is repealed and reenacted to read as follows:

21-I:56 Reclassification of Positions or Increases.

I. Any request for reclassification of a position to a different class series as provided in RSA 21-I:54 shall require the approval of governor and council.

II. Any request to increase the salary of a classified position beyond grade 34 as provided in RSA 99:8 shall require the approval of the fiscal committee of the general court before it is submitted to the governor and council for its approval.

III. Notwithstanding the provisions of RSA 9:16, 9:17 and 17-a, whenever the director of personnel in consultation with the affected department shall determine that the personal services-permanent line item in any PAU and the salary adjustment fund cannot cover the cost of funding a reclassification and a transfer of funds from other line items is required, the director of personnel shall notify the governor and council and the fiscal committee as soon as possible. No such transfer shall be permitted without approval first of the fiscal committee and then of governor and council.

4 Salary. Amend RSA 94:1-a, I by deleting in group M the following: manager, planning and support, division of information services.

5 Repeal. 1991, 346:17, relative to an appropriation to the office of information technology management, the department of administrative services and the department of health and human services, is repealed.

6 Port Authority Duties; Waiting Lists. Amend RSA 271-A:3, V(a) to read as follows:

V.(a) Be authorized to set and collect fees for mooring and slip permits **and waiting lists for such permits.**

7 Port Authority Rulemaking; Waiting Lists. Amend RSA 271-A:4, III to read as follows:

III. Setting and collecting fees for moorings, slips, **waiting lists** and pilotage. A table of such fees shall be attached to the commission of each pilot.

8 Marriage Fees; Reference Change. Amend RSA 457:29 to read as follows:

457:29 Marriage License Fee. The fee for the marriage license shall be \$40 to be paid by the parties entering into the marriage. The clerk shall forward \$33 from each fee to the [state treasurer] **department of health and human services** for the purposes of RSA 173-B:13. The clerk shall retain the remaining \$7 as his fee for making the records of notice, issuing the certificate of marriage, and forwarding the \$33 portion of the marriage license fee.

9 Marriage Fees; Reference Change. Amend RSA 457:29 to read as follows:

457:29 Marriage License Fee. The fee for the marriage license shall be \$20 to be paid by the parties entering into the marriage. The clerk shall forward \$13 from each fee to the [state treasurer] **department of health and human services** for the purposes of RSA 173-B:13. The clerk shall retain the remaining \$7 as his fee for making

the records of notice, issuing the certificate of marriage, and forwarding the \$13 portion of the marriage license fee.

10 Dog License Fees; Reference Change. Amend RSA 466:9 to read as follows:

466:9 Payment of Fees.

I. Clerks of the towns and cities shall issue said licenses, receive the money therefor and pay the same into the treasuries of their respective towns and cities on or before June 1 each year, retaining to their own use \$.50 for each license and submitting \$.50 for each license to the [state treasurer] **department of agriculture** for the purpose specified in paragraph II. The clerks shall return to their respective town or city treasurer a sworn statement of the amount of moneys thus received and paid over by them.

II. The \$.50 received by the [state treasurer] **department of agriculture** for each license issued pursuant to paragraph 1 shall be credited to a special nonlapsing fund to be used exclusively for the operation of the veterinary diagnostic laboratory established under RSA [443:96] **436:92**, and are hereby continually appropriated for such purpose to be expended under the supervision of the commissioner of agriculture.

11 Vital Records Fees. Amend RSA 126:15, II to read as follows:

II. The town clerk shall forward \$6 of each fee collected under this section to the [state treasurer] **division of public health services** for deposit in the vital records improvement fund established under RSA 126:31. The town clerk shall retain the remaining \$4 as his fee for issuing such a copy.

12 State Treasurer; Vital Records Improvement Fund. Amend RSA 6:12, I(tt) to read as follows:

(tt) Moneys received [from the town clerk] **by the division of public health services** under RSA 126:13, II, which shall be credited to the vital records improvement fund established in RSA 126:31.

13 New Subparagraph; State Treasurer; Veterinary Diagnostic Laboratory Fund. Amend RSA 6:12, I by inserting after subparagraph (uu) the following new subparagraph:

(vv) Moneys received by the department of agriculture under RSA 466:9 which shall be credited to the fund established in RSA 466:9, II.

14 National Guard Scholarship Fund. Notwithstanding the provisions of RSA 110-B:60 and 110-B:61, the amount of \$42,000 from the national guard scholarship fund shall lapse to the general fund on June 30, 1992.

15 Appropriation; University System of New Hampshire; Renewal and Adaptation of Existing Facilities System-Wide.

I. There is hereby appropriated \$5,000,000 to the university system of New Hampshire for the purpose of, but not limited to, the meeting of life, safety and handicapped code requirements, upgrading of mechanical systems, repairs to roads and walkways, removal of asbestos and other hazardous materials and roof repairs and replacements at existing facilities.

II. \$3,000,000 of the appropriation shall be available to the university system upon the effective date of this section. The remaining \$2,000,000 shall be available to the university system on or after January 1, 1993. The governor is authorized to draw his warrant for a sum equal to the amount of surplus funds on June 30, 1992, as determined by the comptroller when he issues the unaudited financial report, provided that said sum shall not exceed \$5,000,000.

III. For the purposes of this section "existing facilities" means facilities owned by the university system on the effective date of this section.

IV. The funds appropriated in this section shall not be spent, obligated or encumbered until such time as the university system of New Hampshire has developed an action plan and received the approval of such plan from the capital budget overview committee. Action plans shall be developed and approved prior to the distribution of the \$3,000,000 and again before the distribution of the remaining \$2,000,000.

16 Bonds Authorized. To provide funds for the appropriation made in section 15 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the difference between the sum of \$5,000,000 and the amount of surplus funds on June 30, 1992, as determined by the comptroller when he issues the unaudited financial report. For said purpose the state treasurer shall issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A. The payment of principal and interest on the bonds or notes issued under this section shall be made when due from the general funds of the state.

17 Expenditures; University System of New Hampshire.

I. The appropriation made in section 15 shall be expended by the trustees of the university system of New Hampshire. All contracts for the renewal and adaptation of existing facilities shall be let only after competitive sealed bids have been received and only after an advertisement calling for such bids has been published at least once in each of 2 successive calendar weeks in a newspaper of general circulation in New Hampshire or in a trade journal known to be circulated among the contractors from whom bids will be sought with the state of New Hampshire or elsewhere in the area. The first publication of such advertisement shall be not less than 30 days prior

to the date the bids will be received. All conditions considered, wherever possible, it is recommended that the services of New Hampshire architectural and construction firms be considered within the discretion of the trustees.

II. The appropriation made in section 15 is available for all costs incidental to the renewal and adaption of existing facilities including the costs of the services of architects, engineers, and other consultants of such kind and capacity as the university system board of trustees may, in its discretion, wish to employ on such terms and conditions as the board determines. These moneys shall be spent under the direction of the university system board of trustees.

III. If, in the judgment of the trustees of the university system, just cause exists indicating the lowest bid should be rejected, then the contract may be awarded to the next lowest bidder; or, if the next lowest bid should be rejected, the contract may be awarded to the third lowest bidder.

IV. The board of trustees of the university system has the right to reject any and all bids and, if the lowest bid is in excess of the appropriation, the board has the right to negotiate with the low bidder or with the 3 lowest bidders for a contract for the construction upon terms considered most advantageous to the university. If only one bid is received, the board of trustees may negotiate a contract for the renewal and adaption of existing facilities on terms considered most advantageous to the university system and to the state. Any authorization contained in this act which is at variance with the requirements of applicable federal law and regulations shall be controlled by the terms of the federal law and regulations.

18 Skyhaven Renovation and/or Replacement. Amend 1991, 351:1, X, A, 2 to read as follows:

2. Skyhaven - renovate **and/or replace**

administration building

85,000

19 Skyhaven; Appropriation Increased. Amend 1988, 152:1 to read as follows:

152:1 Appropriation. There is hereby appropriated to the department of transportation the sum of [\$400,000] **\$550,000** for the purpose of designing and constructing additional hangar facilities at Skyhaven airport.

20 Skyhaven; Bonds. Amend 1988, 152:2, as amended by 1989, 367:25 to read as follows:

152:2 Bonds Authorized. To provide funds for the appropriation made in section 1 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of [\$400,000] **\$550,000** and for said purpose shall issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A. The bonds shall be 10-year

bonds. The interest and principal due on the bonds or notes issued under this paragraph shall be a direct charge against the Skyhaven hangar revenues, but the faith and credit of the state shall be pledged for the payment of the bonds.

21 Appropriation; Division of Aeronautics. The sum of \$1,415,000 for the fiscal year ending June 30, 1993, is hereby appropriated to the department of transportation, division of aeronautics, for the purpose of general aviation apron expansion and construction of a taxiway to runway 36 at the Lebanon airport. The appropriation shall be reduced in the amount of \$1,273,500 of federal funds and \$70,750 of local funds. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

22 Appropriation for Department of Transportation; Consolidated Federal Aid. Amend 1991, 312:1.04, 01, 03, 10, 02 by replacing it with the following:

04 Transportation

01 Department of transportation

03 Project development division

10 Matching funds

02 Consolidated federal aid

41 Audit fund set aside	D	53,492	62,672
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90 Other expenditures		<u>58,858,904</u>	<u>70,284,680</u>
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Total		58,912,396	70,347,352
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Estimated source of funds for

Consolidated federal aid

00 Federal funds		53,492,017	62,672,000
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05 Private local funds		650,000	650,000
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09 Other agency income		1,500,000	
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Highway funds		<u>3,270,379</u>	<u>7,025,352</u>
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Total		58,912,396	70,347,352
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23 Department of Transportation; Betterments; State Bridge Aid. Amend PAU 04, 01, 03, 11, 01 as inserted by 1991, 312:1 as follows:

	FY 92	FY 93
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Strike out:

90 Betterments/state bridge aid D	9,772,000	9,772,000
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01 Other agency funds	9,772,000	9,772,000
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Insert in place thereof:

90 Betterments/state bridge aid G	<u>13,447,000</u>	<u>9,772,000</u>
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Total	13,447,000	9,772,000
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Estimated source of funds
for betterment

01 Other agency funds	10,447,000	9,772,000
Highway funds	<u>3,000,000</u>	<u>0</u>
Total	13,447,000	9,772,000

24 Contingency. If HB 1025-A, "An Act relative to budget adjustments for fiscal years 1992 and 1993" becomes law, sections 22 and 23 of this act shall take effect at 12:01 a.m. on the effective date of HB 1025-A. If HB 1025-A does not become law, sections 22 and 23 of this act shall take effect upon its passage.

25 Appropriation; Mount Sunapee Snowmaking. The sum of \$100,000 is hereby appropriated for the fiscal year ending June 30, 1993, to the department of resources and economic development for the purpose of adding snowmaking to Cataract and Fox Run at Mount Sunapee. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

26 New Hampshire Economic Development Fund; Appropriation Increased. Amend 1991, 4:22 and 4:23 to read as follows:

4:22 Appropriation. The sum of [\$5,000,000] **\$5,750,000** is hereby appropriated to the department of resources and economic development for the purpose of carrying out the provisions of section 21 of this act. These funds shall be in addition to any other funds appropriated to the department [and shall be nonlapsing] **and on June 30, 1993, all unexpended and unencumbered balances shall lapse.**

4:23 Bonding Authorization. To provide funds for the appropriation made in section 22 of this act, the state treasurer is hereby authorized to borrow upon the credit of this state not exceeding the sum of [\$5,000,000] **\$5,750,000** and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A, provided that such bonds shall be 15-year bonds.

27 Department of Administrative Services; Hanover-Lebanon District Court Capital Appropriation. The sum of \$500,000 is hereby appropriated to the department of administrative services for the purpose of acquiring, purchasing, entering into a lease purchase agreement, or leasing land or buildings or land and buildings and to construct or renovate, and furnish such buildings as is necessary to establish the Hanover-Lebanon district court. The department of administrative services is authorized to negotiate the acquisition, purchase or lease of such land and building within the limits of the appropriated amount. A resulting purchase contract shall receive

such review and approval as required by state law. This appropriation is in addition to any other funds appropriated to the department of administrative services.

28 Bonds Authorized. To provide funds for the total of the appropriation of state funds made in section 27 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$500,000 and for said purpose may issue bonds and notes in the name and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A. The payment of principal and interest on bonds and notes issued for such project shall be made when due from the general funds of the state.

29 New Paragraph; Department of Justice Duty. Amend RSA 21-M:5 by inserting after paragraph V the following new paragraph:

VI. Submit every 6 months to the joint legislative fiscal committee a report detailing each expenditure approved under RSA 7:12.

30 Department of Justice Expenditure Report. The attorney general shall submit the first report required under section 29 of this act 90 days after the effective date of this section.

31 Health Services Change From Department of Health and Human Services to Legislative Facilities Committee. Amend RSA 125:13-a to read as follows:

125:13-a [First-Aid] **Health Service** Room. The [department of health and human services, division of public health services,] **legislative facilities committee** shall equip and maintain a [first-aid] **health service** room in such location in the state house as may be assigned for such purpose [by the governor and council]. Said room shall be staffed by a **licensed registered** nurse employed by the [division of public health services] **legislative facilities committee**, and said room shall be kept open at all times when the state house is open for business. The expense of the [first-aid] **health service** room shall be a charge upon the [funds of the division of public health services] **joint expenses appropriation to the general court. The division of public health services shall provide back-up.**

32 Allocation of Fees as Matching Funds. Amend RSA 204-C:59, I to read as follows:

I. Fees paid to the authority from the development of qualified residential rental projects financed by bonds issued under section 142(d) of the Internal Revenue Code of 1986, as amended, including projects in operation as of July 1, 1988, **provided, however, that the authority may also allocate such fees as matching funds for federal housing programs such as the Home Investment Partnership Program as established by the National Affordable Housing Act of 1990.**

33 Land Conservation Investment Program; Rulemaking Authorized. Amend RSA 221-A:5, I to read as follows:

I. Adopt rules under RSA 541-A relative to criteria and guidelines for identifying and acquiring lands, easements, development rights, and other interests in lands in accordance with the purposes of this chapter. These criteria and guidelines shall include those listed in RSA 221-A:9. **Further, to adopt rules under RSA 541-a relative to the establishment and operation of a perpetual monitoring endowment, the purpose of which is to provide a permanent source of revenue to protect the interests of the state secured by the expenditure of all funds authorized by RSA 221-A.**

34 Land Conservation Investment Program; Powers and Duties Added. Amend RSA 221-A:5, III to read as follows:

III. Oversee, direct, and expend funds deposited in the trust fund of the New Hampshire land conservation investment program in accordance with the purposes of this chapter. This includes, but is not limited to, the authority to draw upon funds for acquisition of lands and for the administrative costs of the program, excluding the salary and benefits of the executive director. **Further, funds from interest earned on the land conservation investment program trust fund may be allocated by the board to the establishment of a perpetual endowment to provide interest earnings annually for the purpose of providing a source of revenue to annually monitor the lands and interests in lands protected by RSA 221-A.** The board shall report its administrative expenditures to the joint legislative fiscal committee semi-annually. All expenditures for the acquisition of lands, easements, and development rights under this chapter shall be subject to the approval of the governor and council. **The endowment principal shall be held and managed by the state treasurer, and the expenditure of all interest earnings from the endowment fund shall be overseen and directed by the board until June 30, 1993. After June 30, 1993, the council on resources and development shall oversee, direct and expend interest funds earned annually by the endowment.**

35 New Section; Monitoring Endowment. Amend RSA 221-A by inserting after section 5 the following new section:

221-A:5-a Monitoring Endowment.

I. Any monitoring endowment established by the board pursuant to RSA 221-A:5, III shall, be maintained in perpetuity and shall be utilized only for the purposes of monitoring and enforcing the property rights protected by RSA 221-A.

II. The principal of the endowment shall be managed by the state treasurer for the sole purpose of providing interest earnings for the purposes set forth in this chapter, and expenditures from the endowment for those purposes shall be limited to the interest earned thereon.

III. Any interest earned on the endowment principal which is not used for the purposes set forth in this chapter within the fiscal year in which it is earned shall be added to the principal amount. The state treasurer is authorized to accept gifts, donations, and grants, including federal gifts, donations, and grants for the purposes set forth in this chapter, and such gifts, donations and grants shall be added to the principal amount.

IV. Notwithstanding RSA 541-A:2, IV, any rule adopted pursuant to RSA 221-A:5, I concerning the establishment and operation of a perpetual monitoring easement shall remain effective unless and until amended pursuant to RSA 541-A by the board or, pursuant to 1987 340:4, the council on resources and development.

V. The board shall, upon establishment of a monitoring endowment pursuant to RSA 221-A:5, III, prepare an annual report to be presented no later than December 1 of each year to the speaker of the house, the president of the senate, and the governor and council. The report shall include a listing of all lands and interests in lands subject to the monitoring provisions of RSA 221-A and a complete financial accounting of the funds in the monitoring endowment including expenditures for the most recent full fiscal year. The report shall also summarize monitoring activities and findings for each property, as conducted in the most recent full fiscal year.

36 New Sections; Equipment Inventory Fund. Amend RSA 228 by inserting after section 24-a the following new sections:

228:24-b Equipment Inventory Fund.

I. There is hereby established an equipment inventory fund which is hereby authorized as a revolving fund.

II. The commissioner of transportation through the division of property and plant management, may purchase such equipment as is necessary for the operation of department's motor vehicle fleet and construction equipment fleet.

III. The commissioner may rent or lease vehicles and equipment from the equipment inventory to all departments and institutions of the state, political subdivisions of the state and agencies of the federal government. He shall assess a fair and equitable charge with respect to the rental or lease of vehicles and equipment sufficient to defray all administrative, transportation, storage, maintenance, amortization, replacement and other costs incurred by the department in administering this account sufficient to continue the equipment inventory fund as a revolving fund. The revenue from the rent,

lease, or sale of vehicles or equipment purchased, rented or leased with funds from the equipment inventory fund shall be deposited into the equipment inventory fund. The commissioner of transportation shall expend such funds for the operation of the mechanical services bureau, operation division of the department of transportation and to purchase replacement or new motor vehicles and construction equipment, provided that the general court appropriates such funds from the equipment inventory fund to the mechanical services bureau.

228:24-c Replacement or Acquisition of Vehicles and Construction Equipment. The commissioner of transportation is directed to prepare an equipment acquisition plan each biennium and present such plan with his budget requirements submitted in accordance with RSA 9:4.

37 Department of Transportation; Transfer of Vehicles and Equipment. All vehicles and construction equipment owned or acquired after the effective date of this act by the department of transportation shall be transferred to the equipment inventory fund established in RSA 228:24-b.

38 Appropriation. The sum of \$4,000,000 is hereby appropriated to the equipment inventory fund established in RSA 228:24-b, for the purpose of purchasing motor vehicles and construction equipment. This appropriation shall be nonlapsing and in addition to any other funds appropriated to the department of transportation for the biennium ending June 30, 1993.

39 Bonds. To provide funds for the appropriation in section 38 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$4,000,000 and for said purpose may issue bonds and notes in the name and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A. The bonds shall be 5-year bonds.

40 Payment. The payment of principal and interest of the bonds and notes issued for the purchase of vehicles and equipment authorized in section 38 of this act shall be a charge against the equipment inventory fund.

41 Appropriation. There is hereby appropriated from the equipment inventory fund established by RSA 228:24-b the sum of \$4,000,000 for the biennium ending June 30, 1993, to the department of transportation, operations division, mechanical services bureau for the purpose of purchasing new and replacement motor vehicle and construction equipment.

42 Compensation Appeals Board; Members Increased. Amend RSA 281-A:42-a, I to read as follows:

I. There is established a compensation appeals board. The board shall consist of a pool of [15] 21 members at least [5] 11 of whom shall

be attorneys. Members of the board shall be appointed by the governor and council from a list of nominees submitted by the commissioner. The commissioner shall submit at least 2 nominees for each vacancy to be filled. Terms of board members shall be 4 years, except the initial appointments shall be staggered so that no more than 1/3 of the members' terms shall expire in the same year. Members of the board shall have at least 5 years' experience in the area of workers' compensation. Appeals from a decision of the commissioner or the commissioner's representative shall be heard de novo by a 3-member panel at least one of whom shall be an attorney and who shall serve as chair. At least 2 like votes shall be necessary for a decision by the panel. The board shall hear appeals, in accordance with RSA 281-A:43, I(b), from the decisions of the commissioner made pursuant to RSA 281-A:43. No person who is an interested party or an employee of an interested party shall participate as a member of the panel. The board shall conduct its proceedings in such a manner as to ensure a fair and impartial hearing.

43 Increase in the Amount of Taxable Wages. Amend RSA 282-A:69, I to read as follows:

I. Contributions shall accrue and become payable by each employer for each calendar year, in which he is subject to this chapter, in an amount equal to 2.7 percent, except as otherwise provided in RSA 282-A:79-90, of the wages paid **or payable** for employment during such calendar year, not to exceed [\$7,000] **\$8,000** which have been paid to an individual in any calendar year. Such contributions shall become due and be paid by each employer to the commissioner of the department of employment security for the fund in accordance with such rules as the commissioner of the department of employment security may adopt and shall not be deducted, in whole or in part, from the wages of individuals in such employer's employ; provided that the contributions of an employer becoming subject to the law within any calendar year shall be first due and payable after such employer has satisfied the conditions with respect to becoming an employer. For the purposes of this section, the term "wages" shall include service subject to contribution under any employment security law of another state.

44 Adjustments to the Contribution Rate and the Unemployment Compensation Fund. Amend RSA 282-A:82, I-III to read as follows:

I. There shall be subtracted in any calendar quarter from every employer's contribution rate [.2] .5 percent whenever the unemployment compensation fund equals or exceeds [\$100,000,000] **\$200,000,000** throughout the next preceding calendar quarter.

II. There shall be subtracted in any calendar quarter from every employer's contribution rate [.2] .5 percent whenever the unemployment compensation fund equals or exceeds [\$115,000,000] **\$225,000,000** throughout the next preceding calendar quarter.

III. There shall be subtracted in any calendar quarter from every employer's contribution rate [.3] .5 percent whenever the unemployment compensation fund equals or exceeds [\$130,000,000] **\$250,000,000** throughout the next preceding calendar quarter.

45 Skyhaven Commission; Staggered Terms Added. RSA 422:47, II is repealed and reenacted to read as follows:

II.(a) Members of the commission appointed under subparagraphs (a), (b) and (c) shall serve for terms of 1 year.

(b) One of the members of the commission appointed under subparagraph (d) and the member appointed under subparagraph (e) shall serve for terms of 2 years.

(c) The other member appointed under subparagraph (d) and the member appointed under subparagraph (f) shall serve for terms of 3 years.

(d) Each member shall serve until a successor is appointed and qualified. A vacancy shall be filled in the same manner, but only for the unexpired term.

46 Skyhaven Commission; Duties Modified. Amend RSA 422:48, I to read as follows:

I. Be responsible for the oversight of all operations of Skyhaven airport, **including lease and use of all airport property.**

47 New Subparagraph; Agricultural Product and Scale Testing Fund. Amend RSA 6:12, I by inserting after subparagraph (uu) the following new subparagraph:

(vv) One-half the registration fees collected under RSA 435:20, which shall be credited to the agricultural product and scale testing fund, established under RSA 435:20, IV.

48 Increasing Fees. Amend RSA 435:20, II and III to read as follows:

II. No person shall distribute in this state a commercial feed, except a customer-formula feed, which has not been registered pursuant to the provisions of this section. Applications for registration, accompanied by a [\$25] **\$50** per-brand registration fee, shall be submitted in a manner prescribed by the commissioner. Upon approval by the commissioner, a registration shall be issued to the applicant. All registrations shall expire on December 31 of each year.

III. The commissioner may refuse to register any commercial feed not in compliance with the provisions of this subdivision and to cancel any registration subsequently found not to be in compliance with any provision of this subdivision; provided that upon the refusal of registration, the [\$25] **\$50** registration fee shall be returned to the

applicant; and provided further that no registration shall be refused or cancelled unless the applicant or registrant has been given an opportunity to appear at a hearing before the commissioner and to amend his application in order to comply with the requirements of this subdivision.

49 Supplemental Appropriation; Department of Agriculture; Bureau of Markets. Amend 1991, 312:1, PAU 02, 03, 03 of fiscal year 1993 as follows:

Insert	FY 93
--------	-------

91 Agricultural product and scale testing	77,500
03 Revolving Funds	77,500

50 New Paragraph; Agricultural Product and Scale Testing Fund. Amend RSA 435:20 by inserting after paragraph III the following new paragraph:

IV. One-half of the fees collected under this section shall be deposited with the state treasurer into a separate, nonlapsing account to be known as the agricultural product and scale testing fund. The remainder of the fees collected under this section shall be deposited in the general fund.

51 Location of Abandoned Intangible Property; Reference Modified. Amend RSA 471-C:3-a, I(b) to read as follows:

(b) The person or entity originating or issuing the intangible property is the state or any political subdivision of this state, or is incorporated, organized [or], created **or otherwise located** in this state.

52 Abandoned Intangible Property; Reference Modified. Amend RSA 471-C:3-a, III to read as follows:

III. Paragraph I shall apply to all property held on the effective date of this section, or at any time after such date, regardless of when such property [shall be deemed] **became or becomes** presumptively abandoned.

53 Time Limit Removed. Amend RSA 485:3, V to read as follows:

V. The division may adopt rules specifying the criteria under which filtration, including coagulation and sedimentation, as appropriate, is required as a treatment technique for public water systems supplied by surface water sources. In developing such rules the division shall consider the quality of source waters, protection afforded by watershed management, treatment practices such as disinfection and length of water storage and other factors relevant to protection of health. The division may require any public water supply system to assist in determining the necessity of filtration in that system. The division shall provide an opportunity for notice and public hearing prior to implementation of any filtration requirement. Following such hearing, the division shall prescribe, by rule adopted pursuant

to RSA 541-A, a compliance schedule for such filtration requirement. [A public water supply system shall comply with a filtration schedule prescribed by the division not later than 18 months after the division has made a determination of necessity under this

54 Effective Date Changed; Literacy Instruction. Amend 1988, 274:10, I-a, as inserted by 1989, 301:6 and as amended by 1991, 355:101 to read as follows:

I-a. RSA 189:54, II as inserted by section 3 of this act shall take effect July 1, [1992] 1993.

55 Coos County Superior Court Appropriation; Purpose Modified. Amend 1991, 351:1, II, E to read as follows:

E. Coos county superior court-**land acquisition, design and construction documents, handicapped access**
renovations and code requirements 600,000

56 Purpose; Coos County Superior Court House; Land Acquisition. The sum in 1991, 351:1, II, E, as amended by section 55 of this act, is appropriated to the department of administrative services for the land acquisition, design and construction documents, handicap access and safety code renovations to the existing courthouse and for planning to make such existing courthouse capable of being used as a district courthouse, provided that handicapped access and safety code renovations shall have the highest priority and shall be completed before any other expenditures are made.

57 Appropriation to Department of Postsecondary Technical Education Increased. Section 3 of HB 497 shall be replaced with the following:

3 Appropriation; Department of Postsecondary Technical Education.

I. The sum of \$100,000 is appropriated to the department of post-secondary technical education for the purposes of this act. This appropriation shall be nonlapsing. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

58 Contingency. If HB 497-FN-A, "An Act relative to an equipment challenge grant program for vocational and technical education programs and making an appropriation therefor" becomes law, section 57 of this act shall take effect July 1, 1992. If HB 497-FN-A does not become law, section 57 of this act shall not take effect.

59 Legislative Oversight Committee on Student Assessment Program. There is hereby established a legislative oversight committee on the student assessment program established in the operating budget. The committee shall consist of the chair of the house education committee, 2 representatives appointed by the speaker of the house, one of whom shall be from the house appropriations commit-

tee, the chair of the senate education committee, and 2 senators appointed by the president of the senate, one of whom shall be from the senate finance committee. This committee shall be responsible for reviewing the curriculum frameworks and student assessment program. Implementation of the program shall require committee approval.

60 Study Committee Established; Duties.

I. There is established a committee to study sources of revenue that are deposited into the highway fund and the purposes for which such funds are disbursed from the highway fund. The committee shall have the following duties:

(a) To research statutes and financial reports of the state to determine the sources of all revenues accruing to the state from registration fees, operators' licenses, gasoline road tolls or any other special charges or taxes with respect to the operation of motor vehicles or the sale or consumption of motor vehicle fuels.

(b) To research statutes and financial reports of the state and its political subdivisions to identify purposes for which such revenues are appropriated and expended.

(c) To recommend legislation, if appropriate, to implement the committee's findings.

II. The committee shall consist of the following members, all of whom shall be appointed no more than 30 days after the effective date of this act:

(a) One member of the house appropriations committee, appointed by the speaker.

(b) One member of the house ways and means committee, appointed by the speaker.

(c) One member of the house public works committee, appointed by the speaker.

(d) One member of the senate finance committee, appointed by the president.

(e) One member of the senate ways and means committee, appointed by the president.

(f) One member of the senate capital budget committee, appointed by the president.

(g) The commissioner of department of transportation, or designee, who shall be a nonvoting member.

(h) The commissioner of the department of safety, or designee, who shall be a nonvoting member.

III. The first meeting of the committee shall be called by the member appointed from the house appropriations committee. The members shall choose a chairman at the first meeting.

IV. The committee is authorized to request and receive from any agency receiving highway funds, on forms prepared and adopted by the committee, documentation and information relative to program measures using highway funds.

V. Members of the committee shall serve without compensation, except that legislative members shall receive mileage at the legislative rate when attending to the duties of the committee.

VI. The committee shall submit a report of its findings and recommendations, including proposed legislation, to the president of the senate and the speaker of the house no later than December 1, 1992.

61 Lapse Dates Extended. The following appropriations are hereby extended to June 30, 1993:

I. The appropriation made to the department of administrative services in 1991, 177:1, relative to the Nashua superior court furnishings and security systems.

II. The appropriation made to the department of administrative services in 1989, 367:1, II, A-B, as amended by 1991, 351:27, II(e), relative to Londergan hall renovations, and repair of the state house dome.

III. The appropriation made to the university system of New Hampshire in 1989, 367:2, D and E, for Mason Library renovations in Keene, design of a biological sciences center, and Dimond Library design and shelving in Durham.

IV. The appropriation made to the department of transportation in 1988, 152:1 as amended by 1991, 351:27, II(i) for the additional hangar facilities at Skyhaven airport.

V. The appropriations made to the aeronautics commission in 1981, 565:1, II as amended by 1983, 423:17, 1986, 211:18, 1989, 367:27, II(j) and 1991, 351:27, II(j) for the Skyhaven airport and the Skyhaven audit fund.

VI. The appropriation made to the aeronautics commission in 1979, 435:1, III, E as amended by 1983, 423:16, 1986, 211:14 and 1991, 351:27, II(k) for the Skyhaven airport.

VII. The appropriations made to the department of transportation in 1989, 367:1, XII, A, 1, 3 and 4 as amended by 1991, 351:27, II(l) for aeronautics projects.

VIII. The appropriation made to the department of resources and economic development in 1988, 224:1, IV, D as amended by 1991, 351:27, II(f), relative to Hampton harbor dredging.

62 Lapse Date Extension; Appropriation for Concord District Court. The appropriation made to the supreme court in 1989, 367:1, XI, A as extended by 1991, 351:27, II(a) for construction of the Concord district court is hereby extended to June 30, 1993. The supreme

court may expend the remaining funds appropriated as necessary to complete planned furnishing of the Concord district court.

63 Debt Management; Affordable Debt Limit. Amend RSA 6-C:2, I to read as follows:

I. The general court shall not authorize any additional net tax supported debt of the state if the **projected annual** debt service, as **certified by the treasurer and filed with the legislative budget assistant**, on such additional net tax supported debt, when added to the **prior projected and actual annual** debt service on any previously authorized net tax supported debt, both issued and unissued, exceeds 10 percent of the unrestricted general fund revenues for the previous fiscal year.

64 Debt Management; RSA Chapter Suspended. The operation of RSA 6-C is hereby suspended until July 1, 1992.

65 Repeal. The following are repealed:

I. RSA 282-A:82, IV and V relative to certain contribution rates.

II. RSA 282-A:87, III relative to the adverse rating cost.

III. RSA 235:23-a, III(a), relative to highway and bridge betterment program priorities.

66 Effective Date.

I. Section 9 of this act shall take effect July 1, 1994 at 12:01 a.m.

II. Section 43 of this act shall take effect January 1, 1994.

III. Sections 16, 21, 38-41, 44, and paragraphs I and II of section 65 shall take effect July 1, 1992.

IV. Sections 22 and 23 shall take effect as provided in section 24 of this act.

V. Section 57 shall take effect as provided in section 58 of this act.

VI. The remainder of this act shall take effect upon its passage.

*Conferees on the Part
of the Senate*

Sen. Dupont, Dist. 6

Sen. Hough, Dist. 5

Sen. Blaisdell, Dist. 10

*Conferees on the Part
of the House*

Rep. C. Brown, Graf. 13

Rep. Burns, Coos 5

Rep. Jasper, Hills. 19

Rep. Chambers, Graf. 12

AMENDED ANALYSIS

This bill:

(1) Authorizes the state treasurer to borrow without being required to repay the indebtedness within one year.

(2) Redefines the definition of "budget" within the revenue stabilization reserve account to mean the operating budget in effect for the appropriate fiscal biennium.

(3) Requires that any reclassification of a position to a different class series be approved by governor and council.

(4) Requires that certain fees collected by towns be forwarded directly to the appropriate state agency. Current law requires that such moneys be forwarded to the state treasurer.

(5) Authorizes the port authority to set and collect fees for waiting lists.

(6) Lapses the national guard scholarship fund to the general fund.

(7) Makes an appropriation, partially bonded, to the university system of New Hampshire for infrastructure improvements to existing facilities.

(8) Authorizes the department of transportation to renovate and/or replace an administration building at Skyhaven. Current law authorizes the department to renovate the buildings.

(9) Increases the appropriation to the department of transportation for the purpose of designing and constructing additional hangar facilities at Skyhaven Airport.

(10) Makes an appropriation to the department of transportation, division of aeronautics for the purpose of expanding the apron and creating a runway at the Lebanon Airport.

(11) Changes the appropriation to the department of transportation relative to consolidated federal aid and increases the appropriation to the department of transportation for betterments and state bridge aid.

(12) Makes an appropriation to the department of resources and economic development for snowmaking at Mt. Sunapee on Cataract/Fox Run.

(13) Increases a bonded appropriation to the New Hampshire economic development fund.

(14) Makes a bonded appropriation to the department of administrative services for the establishment of the Hanover-Lebanon district court.

(15) Requires the attorney general to submit a report every 6 months to the joint legislative fiscal committee detailing each expenditure approved under RSA 7:12.

(16) Transfers the health service room in the state house from the division of public health services to the legislative facilities committee.

(17) Authorizes the board of directors of the land conservation investment program to adopt rules relative to the establishment and operation of a perpetual monitoring endowment.

(18) Establishes an equipment inventory fund and makes a bonded appropriation to the fund.

(19) Increases the membership of the compensation appeals board.

(20) Increases the employers' contribution cap from \$7,000 to \$8,000 effective January 1, 1994.

(21) Makes adjustments to the reduction in contribution rate associated with the level of funds in the unemployment compensation fund. The bill increases the level of moneys in the compensation fund necessary before any reduction in contribution rate is realized.

(22) Repeals provisions of law relating to reductions in the employer's contribution rate when the unemployment compensation fund exceeds a certain amount and the liability of certain employers for an adverse rating cost.

(23) Staggers the terms of the members of the Skyhaven commission and modifies the commission's duties.

(24) Establishes an agricultural product and scale testing fund into which half of the registration fees collected for commercial feed will be deposited and also increases the per-brand registration fee for commercial feed.

(25) Modifies the definition of abandoned intangible property.

(26) Makes technical changes in certain water laws.

(27) Changes the effective date of a law relative to literacy instruction.

(28) Modifies the purpose of the appropriation for the Coos county superior court to include land acquisition, design and construction documents and handicap access renovations to the existing courthouse and for planning to make such courthouse capable of being used as a district courthouse.

(29) Makes an appropriation to the department of postsecondary technical education for the purposes of directing and developing an equipment challenge grant program for vocational and technical education programs.

(30) Establishes a legislative oversight committee on the student assessment program established in the operating budget.

(31) Establishes a committee to study sources of revenue that are deposited into the highway fund and the purposes for which such funds are disbursed from the highway fund.

(32) Extends the lapse dates for certain appropriations.

(33) Prohibits the general court from authorizing additional net tax supported debt of the state if projected annual debt services, as certified by the treasurer, when added to prior projected and actual annual debt service, issued and unissued, exceeds 10 percent of the unrestricted general fund revenues for the previous fiscal year.

(34) Suspends the operation of RSA 6-C, relative to debt management, until July 1, 1992.

(35) Repeals a certain priority of the highway and bridge betterment program.

Senator Dupont moved to adopt the Committee of Conference Report.

SENATOR DUPONT: If you would go to document number 6226L, I will quickly go through the changes that have been made. The numbering in this document is different from HB 1026, in terms of what we adopted yesterday, so if you still have a schedule that looks like this and try to reference to it, it will not help you, though I can highlight the differences very quickly. I just like to bring your attention to those sections that have changed. The first would be on page six, section 15, that deals with an appropriation to the University System of New Hampshire. That has been reduced to \$5,000,000, \$3,000,000 available to them upon passage of this legislation, \$2,000,000 available to them after January 1, 1993. The other change in this section, is that the language at the end of the section will require that these monies to be taken out of surplus if there is a surplus at the end of 1992, if not, then it will be bonded. That is the first change. Second change, is on page 10, section 21, there is \$70,000 worth of state money that is being utilized to leverage the federal money for the Lebanon Airport. That will be taken out of funds not otherwise appropriated. In other words, it will not be bonded, it will be paid for by cash. The next change is on page 12, Mount Sunapee snowmaking, \$100,000, again, is not bonded as it was in 1026, originally, that will be taken out of cash. Out of available funds, not bonded?

SENATOR PODLES: TAPE INAUDIBLE.

SENATOR DUPONT: Mount Sunapee snowmaking, we had originally authorized this to be dealt with through a bonded appropriation.

SENATOR PODLES: That is \$100,000.

SENATOR DUPONT: That is \$100,000. And usually what happens is those \$100,000 bonded appropriations get merged into one larger bond. We don't go out and borrow the \$100,000 dollars as one piece. What we have done is said that because it appears that there is going to be a surplus as of June 30, 1992, rather than borrowing the \$100,000 dollars we will write a check out of the State's checkbook for the \$100,000 dollars.

SENATOR HOLLINGWORTH: Senator Dupont, if the \$100,000 dollars is there for, or say what we expect to take in, they are saying \$5,000,000 at this point. Say for instance that we don't have that, what will take priorities? Which monies that are cashed will then

become priority items? Who will determine if there is only \$2,000,000, what ones of those that have cash next to them will be the ones will receive funding?

SENATOR DUPONT: Senator, this appropriation is for the fiscal year ending June 30, 1993. So therefor as of June 30, 1992, it really is irrelevant at this point whether that is surplus or not. This will be drawn against next years budget and the work will be done this summer so it will mature at that time to determine, we could have a deficit at the end of 1992, but that is unlikely. It will not impact these monies.

The other change is in section 26, on page 12, the appropriations to the New Hampshire Economic Development fund. The language change is that any underexpanded or unencumbered balances will lapse as of June 30, 1993. So that is the change in that section. The next change will be on page 25, section 57.

SENATOR HEATH: Does the amount change in that section?

SENATOR DUPONT: No, it does not. There was \$5,000,000 outstanding, that had already been authorized, and we increased to three quarters of a million dollars. We increased it to three quarters of a million dollars to \$5,750,000. The \$5,000,000 was authorized last year in the supplemental budget.

SENATOR HEATH: Okay, the parenthesis that are referring back to the bill and not the previous amendment?

SENATOR DUPONT: It would refer back to the previous Committee of Conference report, I believe, just give me a second, and I will go back there, Roger. That would refer to the existing law.

SENATOR HEATH: Okay.

SENATOR DUPONT: The next change is on page 25, section 57, where again rather than bonding the \$100,000, that is being appropriated out of general funds. That is similar to what we did to Sunapee and the Lebanon Airport. You now need to go to page 26, and this is the study committee on the highway fund. Senator Nelson brought up the fact that the chairman of transportation, was on the study committee rather than a member of the Senate Capital Budget committee. The change in this section is merely a language change to accommodate the concerns of our Chairman of Capital Budget. I would like to note that Senator Hough took care of this for Senator Nelson. The next change is on page 29, we were talking about Capital Budget, Senator Nelson, they have changed Transportation to Capital Budget. At your request. The next change is under section 64, debt management, remember we had the discussion about debt management issue that the treasurer had requested with

the suspension. The House had an opportunity to sit down with the state treasurer today and work with Bond Counsel, Representative Kirk, I understand did the bulk of the work and it has been checked out by our Legislative Budget Assistance Office. We are still suspending the Debt Management Chapter until July 1, 1992 at the advice of Bond Counsel. This new language that is in section 63 of the bill clarifies the problems that existed in the existing Debt Management statute, so it is now correct and takes care of the problems that the treasurer and the Bond Counsel had with issuance of debt, with the old version of our Debt Management statute. So with the additional time today we were able to get that straightened out and the treasurer satisfied with it and our Bond Counsel is satisfied. Now there are two other changes, and any of the members of the Committee of Conference, if I have missed anything, anyone can pipe in at this point. The other two changes are that . . . you may remember there was some discussion on the floor yesterday about District Judge salaries, Probate Judge salaries and Judicial vacancy section. It was originally section 63, 64, 65, as a result, there was some concern that language in the court consolidation bill had some problems and it was felt that this needed to clarify that. We have come to the agreement with the House I guess, in their wisdom that these sections are no longer needed. There is still some concern about the court consolidation bill language, but at this point those three sections have been deleted from the bill. I think that Senator Heath, you may have raised the issue about encroachment on the Executive Branch. Actually, the language on the court consolidation bill if this was an encroachment, I believe the language in the court consolidation bill is also. We were told that it was unconstitutional I guess, it needed to be dealt with, but that has been eliminated and the other piece that has been eliminated was section 35. Yesterday that dealt with the group II retiree's, which Senator Disnard, and other members of the body challenged on the floor yesterday as to what the impact was and there was a lot of confusion about that and that has been removed. So those are the changes that I recognize on 1026. I don't know if I have missed anything, I will answer any questions.

SENATOR HEATH: In a couple of instances not for a comparatively great amount of money, but you have moved some things from bonding into current funds. Did you do that with an reestimation of revenues?

SENATOR DUPONT: No, we did not.

SENATOR HEATH: How did you find those new funds?

SENATOR DUPONT: Senator, I will tell you today that, I think that I made, I believe, clear to the House Conferees, there were

assertions made that we are going to have a surplus of between \$5,000,000 and \$10,000,000 as of June 30th. There was a suggestion that we spend that money and not adjust the revenue numbers, and Senate Conferees objected to that. We believe that there is a possibility for a surplus if the numbers that come in on the BPT are good in June. As we have seen in the last year we get a good month. And when we think things are going well when we turn around we have a bad month, so we were unwilling to do that, and quite frankly, the concern that I have right now by what we have done, is the fact that when we look at next years budget where we have used general funds, revenues, to pay for capital items that we traditionally bond, that in a fact it may exacerbate the problem that this legislature will face next year. As a result of utilization of those dollars if the trends continue in terms of what we are having to provide to Human Services and revenues don't improve. As a way of moving forward this process and, spare of compromise, we have made these changes.

SENATOR HEATH: So it is a bit of riverboat gamble between their optimism and your caution?

SENATOR DUPONT: With the exception of the University piece which has a contingency that allows surplus monies to be used rather than bonding. We are fairly confident that the other items that have been paid for with funds not otherwise appropriated will come out of what we believe to be our best estimate of the surplus at this point which is around \$400,000 or \$360,000, a little over \$300,000 dollars, so we have reduced that so that when the final budget analyses is printed it will show that amount, minus what we now . . . the \$270,000 dollars that we have now appropriated out of general funds.

SENATOR COLANTUONO: The paragraph 65, has the repeal of the unemployment compensation contribution rate, adverse rating in cost, I do not see the increased employer contribution tax? Is that somewhere else, I did not see it anywhere?

SENATOR DUPONT: I believe that we repealed the section that dealt with that Senator. Are you talking about the repeal section?

SENATOR COLANTUONO: Section 65.

SENATOR DUPONT: Yes.

SENATOR COLANTUONO: Yesterdays version had the tax increase from \$7,000 to \$8,000.

SENATOR DUPONT: That is still in here, it is in a separate section, and if you give me a minute I will pull it out. It is on page 20.

SENATOR COLANTUONO: Thank you.

SENATOR DUPONT: You understand that the repeal takes away the two sections that are replaced by language, and the repeals are what reduces the cost of the employers.

SENATOR COLANTUONO: Yes.

Adopted.

Recess

Senator Dupont in the Chair.

RECONSIDERATION

Senator Hough moved that the Senate reconsider it's action whereby we refuse to adopt the committee of conference on HB 1025, an act relative to budget adjustments for fiscal years 1992 and 1993 and discharged the committee of conference and appointed a new committee.

SENATOR HEATH: Senator Hough, would you restate that language? My question is based on what you just said.

SENATOR HOUGH: To repeat my motion to reconsider our action whereby we refuse to adopt the Committee of Conference on HB 1025.

SENATOR HEATH: No, you used the word budget in there?

SENATOR HOUGH: An act relative to budget adjustments.

SENATOR HEATH: Okay, then that was a budget.

SENATOR HOUGH: A budget adjustment.

Adopted.

HB 1025, an act relative to budget adjustments for fiscal years 1992 and 1993.

Senator Hough moved adoption.

SENATOR DUPONT (In the Chair): Yesterday as a result of the actions of HB 1026 in the House, we refused to adopt the Committee of Conference on HB 1025. So that nobody gets confused that anything is going on, we did not debate this bill yesterday. I just want you to be made aware of that. The changes that took place in this legislation primarily, were to remove the bonded appropriations out of it and move them into HB 1026. So I just want everyone to be aware of that before we take action on the Committee of Conference report. Yes, Senator Heath, yesterday afternoon we refused to adopt the Committee of Conference report and then we appointed a new Committee of Conference. At the time when we did that, we did not

discuss the merits of the Committee of Conference report on HB 1025, so I am just letting the body know that there was no discussion on this legislation at the time when we took action on it. What I indicated was that as part of the original Committee of Conference on HB 1025 and HB 1026, the items that had been bonded, appropriations at the insistence of the House were moved from HB 1025 over to HB 1026, so it contains less than what it did when we originally passed HB 1025.

Question is on the Committee of Conference report on HB 1025.

Adopted.

Senator Heath in opposition to HB 1025.

SENATOR HUMPHREY: Mr. President, and members, this will be brief, I hope. Members will recall a couple of weeks ago we passed a resolution calling upon the Supreme Court to issue an opinion on the constitutionality of the Choice in Education bill, and that motion was adopted, I think, by 23 to 1. The court has since replied asking to be excused from the duty from returning an answer, arguing that, to quote the letter from the court, "the time remaining before the anticipated determination of the General Court's current session is insufficient to provide interested persons with a reasonable opportunity to address the justices, or to allow the justices an adequate opportunity to consider the questions with the thoroughness their importance demands". Well, frankly, this response to the argument is a red-herring. The court is adopting the point of view that when we adjourn, we are no longer a Senate. We are no longer Senators. Well we are Senators, and we are a Senate, till the next Senate is sworn in, in December. We can be prorogue by the Governor, whatever that is, and be back here discharging our duties. So the argument that the court does not have time to consider this because we are about to go out is nonsense. The Court has till December. Therefore, I would encourage the President to decline to the excuse that the court answer the question that we submitted.

SENATOR DISNARD: I concur with Senator Humphrey's remarks, I was the one that was interested in such an opinion, and in seven months I would assume something could happen on behalf of the Senate's request. It is going to be very important, I assume, for next years session that someone should introduce a bill on Choice of Education. We need that background information.

SENATOR DUPONT (In the Chair): Thank you, Senator Disnard, I will take it under advisement, and work with the legal counsel of the Senate to convey to the justices our concerns. I will consult with both Senator Disnard, Senator Humphrey, when we do that.

SENATOR HEATH: This is a question that is not going away, and it needs to be resolved, and it doesn't need to be resolved at the expense of a school system or a private individual. Because it is going to be a matter in legislation if not this session, but in future sessions. So I would likewise urge that the Courts address this.

THE SUPREME COURT OF NEW HAMPSHIRE

Request of the Senate

No. 92-202

OPINION OF THE JUSTICES

(Misdemeanor Trial De Novo)

May 6, 1992

The following Resolution No. 4, requesting an opinion of the justices, was adopted by the senate on April 7, 1992, and filed with the supreme court on April 9, 1992:

"Whereas, there is pending in the Senate, House Bill 677-FN, 'An Act establishing a 2-year pilot program in Rockingham county eliminating the trial de novo system in misdemeanor cases,' as amended by the House of Representatives; and

"Whereas, HB 677-FN eliminates the trial de novo appeal to the superior court and provides for an appeal only to the supreme court for defendants in misdemeanor cases which have been tried by jury in the district courts in only one county in New Hampshire for a temporary 2-year period; and

"Whereas, under HB 677-FN defendants whose cases are tried by juries in district court outside of Rockingham county during the period of July 1, 1992, to July 1, 1994, will retain the option for a trial de novo appeal while defendants in Rockingham county will lose such option; now, therefore, be it

"Resolved by the Senate:

"That the Justices of the Supreme Court are respectfully requested to give their opinion on the following questions of law:

1. Does eliminating the option for a trial de novo appeal to superior court for certain defendants in Rockingham county for a temporary 2-year period, while preserving the option for the same class of defendants in the remaining counties of New Hampshire, deprive the defendants in district courts in Rockingham county whose cases are tried by jury during such 2-year period of equal protection of the laws under Part I, Articles 1 and 12 of the New Hampshire Constitution or of equal access to the courts under Part I, Article 14 of the New Hampshire Constitution?

2. Does temporarily eliminating the option for a trial de novo appeal to superior court for certain defendants in district courts in Rockingham county deprive these defendants of due process of law or equal protection of the laws under the Fourteenth Amendment to the United States Constitution?

"That the senate clerk transmit copies of this resolution and HB 677-FN as amended by the House of Representatives to the Justices of the New Hampshire Supreme Court."

The following response is respectfully returned:
To the Honorable Senate:

The undersigned justices of the supreme court now submit the following replies to your questions of April 7, 1992. Following our receipt of your resolution on April 9, 1992, we invited interested parties to file memoranda with the court on or before April 28, 1992.

House Bill 677-FN (the bill) establishes a pilot program in Rockingham County designed to remedy a perceived problem in the management of misdemeanor cases. Currently, district courts have original jurisdiction of misdemeanor cases, cf. RSA 502-A:11 (district courts have original jurisdiction of crimes and offenses punishable by fine not exceeding \$1,000 and imprisonment not exceeding one year); RSA 625:9, IV ("misdemeanor" is, inter alia, any crime for which maximum penalty is imprisonment of one year); RSA 651:2, II(c) (sentence for misdemeanor cannot exceed one year); RSA 651:2, IV(a) (Supp. 1991) (fine for misdemeanor cannot exceed \$2,000), but a defendant convicted in district court has the right to a trial de novo in superior court, see RSA 599:1 (Supp. 1991) (defendants convicted in district court may appeal to superior court); *State v. Lambert*, 125 N.H. 442, 444, 480 A.2d 205, 206 (1984) (RSA 599:1 provides defendants convicted in district court with right to trial de novo in superior court). The bill eliminates this right, and in its place grants misdemeanor defendants the right to a jury trial in district court and the right to appeal issues of law directly to this court. Supporters of the bill believe the program will save both time and money. See N.H.H.R. Record, Vol. 14, No. 9, at 329 (1992) (remarks of Rep. Donalee M. Lozeau); N.H.H.R. Record, Vol. 14, No. 23, at 617 (1992) (remarks of Rep. Stacey W. Cole). Moreover, a report favored by the supporters asserts that by concentrating "the more serious and complex matters in superior court," the program will better allocate responsibility between district and superior court. N.H. Supreme Court Long-Range Planning Task Force, *As New Hampshire Approaches the Twenty-First Century* 13 (1990); see also N.H.H.R. Jour. 227 (1991) ("The Task Force to Study the Elimination of the Trial De Novo System plans to come in this summer with an omnibus bill implementing the Supreme Court's long-range report on the court in the 21st Century.").

The bill provides:

"1 Pilot Program; Elimination of Trial De Novo in Superior Courts; Rockingham County.

I. Notwithstanding RSA 502-A, RSA 599, or any other provision of law to the contrary, the supreme court is directed to establish a 2-year pilot program eliminating the trial de novo system in misdemeanor cases in Rockingham county.

II. For purposes of this pilot program, the district courts in Rockingham county shall have original and exclusive jurisdiction over any crime or offense which is punishable by a fine of not more than \$2,000 and imprisonment not exceeding one year. For the purposes of this pilot program only and notwithstanding the provisions of RSA 502-A:1, the supreme court shall divide Rockingham county into 3 judicial districts for which jury trials may be conducted at the current locations for the Salem district court, the Portsmouth district court, and the Rockingham superior court.

III. At the time of his arraignment in a district court in Rockingham county or, at the discretion of the court, for up to 20 days after the date of his arraignment, the defendant shall have an option of electing a jury trial or a non-jury trial. A non-jury trial shall be held in the district court where the complaint was filed. If the defendant chooses a jury trial, the case shall be heard in the judicial district designated by the supreme court to be served by the Rockingham superior court, the Salem district court, or the Portsmouth district court for trial by jury. Appeal of a decision on a misdemeanor case heard in Rockingham county shall be directly to the supreme court on issues of law only.

IV. The pilot program shall take effect on July 1, 1992, and shall continue for 2 years. The end result of this pilot program shall be as outlined in paragraph II; however, the method and dispatch with which it is implemented is within the discretion of the supreme court. On or before September 1, 1994, the supreme court shall submit a report, including any recommendations for continuation or expansion of the pilot program, to the speaker of the house, the senate president and the governor.

2 Effective Date. This act shall take effect July 1, 1992."

Question one first asks whether the bill violates the equal protection rights of Rockingham County misdemeanor defendants guaranteed by the New Hampshire Constitution. See N.H. CONST. pt. I, arts. 1, 2, 12. Question two asks the same question, but in terms of the United States Constitution. See U.S. CONST. amend. XIV,

[1. Where an equal protection analysis requires merely a "rational relation" review, the State and Federal Constitutions offer similar protections. See *State v. LaPorte*, 134 N.H. 73, 76-78, 587 A.2d 1237, 1239-40 (1991) (examining statute under rational relation review and

making no distinction between State and Federal Constitutions). Consequently, if we find that the bill need only survive the rational relation test, we can dispense with two separate State and federal equal protection analyses, and perform just one.

Rational relation review is appropriate where "the classification [created by a statute or bill] does not affect a fundamental right or classify on the basis of race, creed, color, gender, national origin, or legitimacy." *State v. LaPorte*, 134 N.H. at 76, 587 A.2d at 1239. The bill's geographical classification suggests none of the enumerated "suspect classifications" and its elimination of the trial de novo prerogative affects no fundamental right. Neither the State nor the Federal Constitution guarantees a defendant the privilege of two trials.

Moreover, the bill leaves the right to a jury trial intact. See N.H. CONST. pt. I, art. 15; U.S. CONST. amend. VI, XIV, [1. While it controls the timing and location of the trial, it does not limit the right itself. Cf. *Capital Traction Co. v. Hof*, 174 U.S. 1, 23 (1899) (Seventh amendment "does not prescribe at what stage of an action a trial by jury must, if demanded, be had; or what conditions may be imposed upon the demand of such a trial, consistently with preserving the right to it."). By its very terms, the bill ensures that each defendant retains the right to a jury trial. This right does not include the option to specify where and when the right will be executed. Consequently, we conclude that the bill need only be examined under the rational relation test, see *Fire-lock Inc. v. District Court*, 776 P.2d 1090, 1098 (Colo. 1989), and therefore conduct a joint State and federal equal protection analysis.

Under the rational relation test, "legislation is presumed to be valid and will be sustained if the classification drawn by the statute is rationally related to a legitimate state interest." *State v. LaPorte*, 134 N.H. at 76, 587 A.2d at 1239 (quoting *Cleburne v. Cleburne Living Center*, 473 U.S. 432, 440 (1985)). The legitimate State interest here is reducing State expenditures and delivering justice more efficiently. The classification drawn by the bill, between Rockingham County defendants and defendants in the other nine counties, results from the legislature's decision to test the efficacy of the new system in one county before mandating this new system throughout the State. In other words, the pilot program is specifically created to determine whether the elimination of the trial de novo system will actually reduce State expenditures and deliver justice more efficiently as intended. The classification created by the program is thus perforce rationally related to a legitimate State interest.

Other courts have reached the same conclusion. See *Kimbrough v. Holiday Inn*, 478 F. Supp. 566, 575 (E.D. Pa. 1979) ("Reform can proceed one stage at a time."); *Fire-lock Inc. v. District Court*, 776 P.2d

at 1098 (conducting pilot mandatory arbitration program in only one part of state does not violate equal protection). Even where no pilot program is used to justify a territorial discrepancy in the administration of justice, courts have often upheld intra-state differences if persons within each territory were treated alike and constitutional protections were not otherwise abridged. See *North v. Russell*, 427 U.S. 328, 338-39 (1976) (population and area factors may alone justify territorial classifications within state court system); *Mallett v. North Carolina*, 181 U.S. 589, 597-99 (1901) (no denial of equal protection where State is allowed appeal from superior court ruling in one part of state, but not another); *Washabaugh v. Washabaugh*, 285 Md. 393, 407, 404 A.2d 1027, 1035 (1979) (there is "no constitutional limitation per se upon territorial differentiations in judicial organization or procedures").

"[The fourteenth amendment] contemplates persons and classes of persons. It has not respect [sic] to local and municipal regulations that do not injuriously affect or discriminate between persons or classes of persons within the places or municipalities for which such regulations are made . . . [A state] may establish . . . one system for one portion of its territory and another system for another portion." *Missouri v. Lewis*, 101 U.S. 22, 30-31 (1879). We conclude that the bill does not violate equal protection and thus answer the first part of question one and the second part of question two in the negative.

Question one of the Senate request also asks whether the bill violates a Rockingham County misdemeanor defendant's right of equal access to courts, as guaranteed by part I, article 14 of the New Hampshire Constitution. We find that it does not. Part I, article 14 reads:

"Every subject of this state is entitled to a certain remedy, by having recourse to the laws, for all injuries he may receive in his person, property, or character; to obtain right and justice freely, without being obliged to purchase it; completely, and without any denial; promptly, and without delay; conformably to the laws."

The first portion of the article relates to civil litigation and thus is inapplicable here. The portions concerning prompt and free trials likewise do not apply, as the bill affords Rockingham County misdemeanor defendants the right to a jury trial in the first instance with no price tag attached. *State v. Cushing*, 119 N.H. 147, 148, 399 A.2d 297, 298 (1979). Similarly, the bill provides no indication that justice will be anything but "complete[], and without any denial." Finally, as "conformably to the laws" means in accordance with the rules of statutory and common law, cf. *Sousa v. State*, 115 N.H. 340, 343, 341 A.2d 282, 284 (1975) (civil suits), it simply refers back to the bill at issue here.

In *State v. Basinow*, 117 N.H. 176, 177, 371 A.2d 458, 459 (1977), we said:

“Although historical research has disclosed no fixed meaning for the provision as a whole, [part I, article 14] is basically an equal protection clause in that it implies that all litigants similarly situated may appeal to the courts both for relief and for defense under like conditions and with like protection and without discrimination.” (Citation and internal quotations omitted.) To the extent that article 14 is viewed as an equal protection clause, an analysis here would simply duplicate the one performed above under part I, articles 1, 2, and 12 and under the fourteenth amendment. We therefore find that the bill does not violate article 14, and answer the second part of question one in the negative.

We now address the first part of question two, asking whether the bill violates the due process clause of the United States Constitution. See U.S. CONST. amend. XIV, [1. We again answer in the negative. The fourteenth amendment declares that no state shall “deprive any person of life, liberty, or property, without due process of law.” By its terms, the amendment guarantees due process only when deprivation of life, liberty, or property is threatened. The bill obviously threatens neither a defendant’s life nor his or her property, and thus we confine our analysis to the question of liberty.

First, we note that, in the nature of all criminal proceedings, a defendant’s liberty may ultimately be lost following a proceeding conducted pursuant to the bill. However, the question is not whether a defendant’s liberty might be jeopardized under the pilot program, but whether the bill deprives a defendant of liberty without due process. Because the bill gives defendants the option of a full jury trial and the right to appeal a conviction to this court on issues of law, we find that the proposed legislation provides defendants all the process they are due. See *State v. Laaman*, 114 N.H. 794, 798, 331 A.2d 354, 357 (1974) (due process requires that accused receive a trial by fair and impartial jury), cert. denied, 423 U.S. 854 (1975). As long as a district court jury trial affords protections equivalent to those supplied by a trial conducted in superior court, defendants cannot successfully argue that they are deprived of due process simply because their cases are handled by one court, and not the other.

In conclusion, we answer all parts of questions one and two in the negative. We note, however, that “since requests for our advisory opinions come to us with no record beyond the assumptions stated in the requests themselves,” Opinion of the Justices, 132 N.H. 777, 783, 584 A.2d 1342, 1346 (1990), we “cannot guarantee that we have been able to address every possible issue that may be raised,” Opinion of the Justices, 128 N.H. 14, 17, 509 A.2d 744, 746 (1986). “[I]t is impos-

sible to anticipate the myriad fact patterns which may arise and test the limits of [the bill]." Opinion of the Justices, 134 N.H. 266, 279, 592 A.2d 180, 188 (1991).

David A. Brock
William F. Batchelder
William R. Johnson
W. Stephen Thayer, III
Sherman D. Horton, Jr.

May 6, 1992

Representative Robert E. Murphy, of Manchester, pro se, filed a memorandum in support of negative answers to the questions presented.

SENATOR HOLLINGWORTH (Rule #44): We did receive a response from the courts on that and I think that you all received a copy, it is on page two. They have stated that they do not feel that this would deprive anyone of their constitutional rights. Therefore, I would like to ask that it be removed so that we may take action on that.

SENATOR DUPONT (In the Chair): Senator, you were just recognized for a rule #44.

SENATOR HOLLINGWORTH: Excuse me, Mr. President.

TAKEN OFF THE TABLE

Senator Bass moved to have HB 677-FN an act establishing a 2-year pilot program in Rockingham county eliminating the trial de novo system in misdemeanor cases taken off the table.

Adopted.

HB 677-FN, an act establishing a 2-year pilot program in Rockingham county eliminating the trial de novo system in misdemeanor cases.

Question is on the motion of interim study.

Senator Hollingworth moved ought to pass.

SENATOR HOLLINGWORTH: This is a HB 677, is a bill that will set up a study program in Rockingham County, to deal with misdemeanor cases. Presently, a misdemeanor case which carries a fine up to \$2,000 and less than a year in jail, if defendant chooses could bring that case before the Superior Court. This bill would allow him the choice to have that hearing with a jury before the District Court and not to have that moved to a Superior Court. It is a test case to see if it would test program, pilot program, to see whether we can save some money. And it has been tried in other jurisdictions, and it has

saved money for the state, and I would ask for your support on that. This went before our committee and we heard testimony on the bill.

Recess.

Out of recess.

SENATOR HOLLINGWORTH: And as I said before, it does establish a two year pilot program, in Rockingham County, to eliminate trial de novo. This bill has been around before and this is something that has come before both the House and the Senate Judiciary committee, and there has been a study done recently that this has worked in other states. It is just a trial program, and if we do try it we will see whether in fact it can work in New Hampshire and whether it will be a money saver.

SENATOR PODLES: There are a lot of pluses in this bill, and I would like the Senators to know that even though the bill requests a two year pilot program, it has only been funded for one year.

SENATOR RUSSMAN: I don't feel extremely strong about this bill one way or another. You ought to understand a couple of things: one; this may require two new judges one of each, in each of these courthouses. The courthouses are already full-time. The Superior Court Judges, yesterday testified in favor of this hoping to get rid of some of these trials and some of their caseloads. I have communication with at least one or more District Court Judges who do not think that it was a good idea, they think that funding is absolutely an understatement. That we are going to have to go out and find jurors to come in, to pay these jurors per diem, to come in while a jury pool is picked to get the jury trials and then the security right now you have an armed bailiff, in the District Court setting. He kind of calls the case and so on, so forth, and he is armed in plain clothes type of fashion. If you go into any Superior Courthouse you see the security at the door, and all that type of stuff, I would anticipate that the District Court Judges, if there are going to be jurors there and they are trying cases that they are going to ask for additional security, or demand additional security. I think that the financial end of it is grossly understated, in terms of what it is going to cost us for the pilot program. I think a better alternative would be to wait and see what the six man jury questionnaire does on the November ballot. We are going to ask for a six man jury under the constitutional amendment on misdemeanor cases and I think that they may be appropriate. I know for example, in Salem, there would be additional construction that would have to be done on the jury box, and things of that nature to try to make it fit a twelve man. I think at this point it is only built for a six man jury, if I am not mistaken, so I don't think that it is quite as simple as this would lead us to believe. I have

talked to Senator Colantuono about this and he also concurs with this. Personally, it does not matter to me if I try my case in a District Court before a jury or in Superior Court before a jury, it really makes no difference, in that respect. It is just something that I think that you ought to know as Senators that I think that it is grossly understated and I am not sure to get the thing passed and then we are stuck with the financial burdens of it, or what have you. The other possibility would be an Interim Study of this to see what happens in the November election and then have it come back next year for the appropriate funding and so on or so forth. I think that the vote is probably on the other side, but I thought that you ought to at least know that.

SENATOR J. KING: Yes, thank you, I rise in support of passage of HB 677, it has already passed the House, and this is only a trial program. It is pretty difficult to find out what you need or what you don't need, but you have a pretty good idea, and I think that the Judges of the Supreme Court and the Superior Court have a good idea what is needed or what should be needed. I think that it has been around for several years, and the input could have been provided in the past if they really thought that it was needed. At the current time they use the same jury, the same person that we are talking about can ask for a jury hearing. That means that they have to provide a twelve person jury, to that person. It does cut out on one of the hearings, this same person that we are talking about now with the misdemeanor can be heard before the judge, found guilty, walk out of there, and say I want another hearing with a jury and then they go to Superior Court and get a hearing. They have to provide the twelve persons to fill that jury. There is not going to be anything changed, we are dealing approximately with the same amount of people, they are going to have to get a jury if they decide. This will give them one chance, you either accept the jury or accept the other one. It is bound to save money somewhere, that is what the pilot is going to find, you save it by taking some of the judges from one place to the other; where do you save money? If you can eliminate one hearing and I don't know how many cases there are a year, \$30,000, whatever the amount is you are going to save peoples time, and you are going to save money, and you are going to save lawyers fees, and you are going to save whatever you can think of, policemen going to the hearings, whatever it maybe. The time has come, if we are looking how to cut in some places, this is the place to start, we have to start on it now, let's not kill it. By the way six person jury, if that passes or is accepted by the people, that is even more of a plus. Because then you really use a six person jury, until that passes or is accepted by the people you are going to continue to

use the 12 man jury. So if that passes that is even another plus as far as better justice, saving money all the way down the line. I certainly suggest that you pass HB 677, thank you.

SENATOR COLANTUONO: The Judiciary committee, originally decided that it was best to send this bill over to the Supreme court to decide whether it was a violation of equal protection to have one set of rules for Rockingham County, defendants; and another set of rules for the whole rest of the state. This bill requires everybody arrested in Rockingham County to have an election between a trial in front of a judge in a District Court, or a jury trial in a District Court. Whereas everyone else in the whole state is entitled to trial in front of the judge in the District Court, and then if they are convicted they can appeal and get a jury trial in the Superior Court. We felt that it was possible that it did violate the equal protection rights. The Supreme Court came back and said it does not violate equal protection rights under our constitution. That is not really the end of the inquiry, we still have to decide is it fair to do this to people. That is our job as legislators. I think that it is grossly unfair to have one set of rules for people arrested in Rockingham County and one set of rules for the rest of the state. I would not have as much of a problem with this bill if it was optional, the bill is mandatory. So that is the first problem I have with the bill, the second major problem I have with the bill is that it is a pilot program designed to see if something is going to work. Well, you have to have a system set up that can receive this program, if it does work in Rockingham County. The problem with that concept in this bill is that the Salem District Court, and the Portsmouth District Court are about the only two modern District Courts to have the facility for jury trials. Even the court that we just built right here in Concord and just opened which is the Taj Mahal of all District Courts in the state, is not set up for jury trials. There is almost literally no place else to go if this pilot program works. So I think it is a silly concept to have a pilot program on something that can never be established, it is going to be decades before Districts Courts are built throughout the state to put this into place. To elaborate a little bit on the funding problem, we have been told from Judges who are going to participate in this, that they are going to need a new judge in each of the courts full-time judges in Salem, and in Portsmouth. District court judges are paid somewhere around \$80,000 or so. There not even figured, if you look at the fiscal note, on page three, they are not even figured in there. Those judges have full workloads already. Both the special justices, and the justices in each of those courts, if the full-time justices in those courts are going to be hearing jury trials, you are going to need another full-time judge in there to hear

all the landlord and tenant, civil cases and small claims and everything else. So I think, I agree, with Senator Russman that the fiscal impact on this bill is grossly understated. And I think that it is the wrong concept anyway. And I think that the whole purpose of this bill is to try to take some of the workload off the Superior Courts. But I can tell you from personal experience, that the Superior Court workload is not based on misdemeanor appeals. In most of the counties in this state there isn't a serious backlog of cases. Hillsborough and Rockingham are the counties that have the bad backlog, we are well on the way to solving the Hillsborough County backlog with the opening of the Nashua Courthouse. We are going to be well on the way to solving the Rockingham County backlog by the construction of the new Rockingham County Court. I think that this bill is a bad idea, at a bad time. And furthermore, the other reason why the Judiciary committee recommended Interim Study was as Senator Russman said, to wait to see the result of the November vote to see if we are going to go from twelve person juries to six person juries. I still think that is a good idea, there is no reason why we can't wait until January and put in a new bill. Because I think that it is absurd to try to put a 12 person jury in those, Salem and Portsmouth District Courts. We just don't have the room for them and we are not built for them and one thing else in terms of saving money, the proponents think that it is going to save money. As a practitioner, I can tell you that what is going to happen to anyone who is arrested in Rockingham County on a misdemeanor, and gets an attorney and asks for advice as what to do, should I take a judge trial for my only option or should I take jury trial for my only option. I think that it is about perfection malpractice for any attorney to say, "don't take the jury trial just go have your trial in front of the judge." This will lead to more jury trials, more per diem costs for jurors, and more expense, to have these trials in terms of judge expense, the cost of bailiffs and everything else, and I think this is a step backwards and even though it is well intentioned, I still think that it is ill conceived.

SENATOR RUSSMAN: Just if I may, just so that you have a practical understanding of what happens: I do a lot of misdemeanor work, I would say probably 49 out of 50 cases that I get involved with in the District Court are resolved right in the District Court. I bet one out of fifty cases, I might take in appeal to Superior Court for a jury trial. It is so much easier to negotiate a plea bargain or whatever to try the case in the District Court setting. In terms, if I have to have a choice, someone says you got to pick one or the other, obviously, I am going to say lets go before a jury of our peers to get a trial. So I mean there is no question in my mind that you are going to see a dramatic increase in the request for jury trials. And working with

the jury, you have to understand when you have a large pool of jurors, and you narrow it down to 12 people, and if that does not pass, your 12 people, you have two alternates, you have 14 people, you wonder why the courts go so slow. They never get started until nine thirty or maybe ten o'clock, they go an hour and a half maybe, at best, they take the morning break, because someone has to go to the bathroom. You talk about things, by the time they go to lunch, they break at 12:30, by the time everyone goes to lunch, okay, gets on a bus and goes to lunch, they hit the bathroom on the way, they hit the bathroom on the way back, you don't get back to 2-2:30. The time working with juries is incredible in terms of lack of efficiency. You are working with a large group of people, and then they all go home at 4-4:30, so you don't get an awful lot done in jury sittings, in all honesty. On the other hand, in the District Court level, in some respects, it is like a mill, they are pushed forward and they are fast cases, I mean the presentations are much shorter. When you have a jury talk over trying the case. When you try a case to a judge, you only have to say it once, because you assume that the judge hears you and listens, when you try a case to a jury you have to make your point three or four times in case the jurors may not hear it, or you may want to bring home an emphasis. Jury type situations such as this are not as simple as the bill may make it out to be. I think that the cost factor is something that you really do need to consider.

SENATOR J. KING: Senator Russman, do you state that if you had your choice, if someone said that he could be heard before the judge or heard before the jury, you said right away you would pick the jury?

SENATOR RUSSMAN: Yes, if I had the choice.

SENATOR J. KING: Would you tell me why you would do that?

SENATOR RUSSMAN: First of all, I think that it would take longer to get a trial. You want the practical aspects of it, if it is going to take longer to get a trial. The longer you can put it off in the defendants best interest people's memory's become clouded, things happen and it is to the defendants best interest to try to do that, to try to continue it out as long as possible. You have people who could be in the same position and you can argue to the jury. Particularly, in misdemeanor cases whether it is a disorderly conduct, if someone has had a few too many beers, and they get a little rowdy or something and they get in a argument with a policeman. Anyone of the 12 people could have that happen to one of their friends. See, you can argue all these things, I don't want to go on about the number of reasons why I think that jury trials are probably, if you only have

one way to go, that would be the way to go. I could elaborate further, but I don't want to take everybody's time, but there are certainly reasons.

SENATOR FRASER: I would like an answer to a question from anyone on the Judiciary committee. I do not care who answers it, I would just like to know, did the judicial branch of government testify for or against this bill?

SENATOR RUSSMAN: Yes, the judicial branch of government came in and testified, at least the Superior Court aspects of it came in and testified. I don't blame them because they see this as a way perhaps to get rid of some of their caseload. All you need is one murder trial to tie up a courtroom for months.

SENATOR FRASER: Attorney Russman, I don't know whether it was you or whether it was Senator Colantuono, one of you said there was no accommodation in the fiscal note for additional judges salaries.

SENATOR RUSSMAN: I think it was Senator Colantuono, but . . .

SENATOR FRASER: May I address Senator Colantuono? What I want to know, what operating expenses for the Salem District Court, that \$77,000 Portsmouth District Court \$59,000. So if those are not additional salaries do you happen to know what those items are for?

SENATOR COLANTUONO: I think they have to do with things like additional secretarial help, stenographic help, bailiffs, and that type of thing. Jury fees, I think, would be in cost of jury trial. I think that the cost of jury trial at \$26,000 is kind of understated too, because you are going to have jurors in there just about everyday.

SENATOR J. KING: Senator Colantuono, if you go to page 2, and would you believe that this does not take effect till July 1, 1992, which means there is one year left in the biennium? So that \$200,000, is for one year. Hopefully, that the next budget will be worked on if it is needed or not?

SENATOR COLANTUONO: Well, the effective date is this July, and the fiscal note does reflect \$201,000 and we think that it is going to be more like \$400,000, just for this one year.

SENATOR NELSON: I want to just say for some clarification to the body, that in fact a study committee was established, and it met over the last two years, or one year, oh, one year, of which Senator Podles and I were a member. Along with judges, a Supreme Court justice sat on the committee and Judges from all over the state and attorney's, a public member, Representative Murphy, a judge from an-

other area from the state. Anyway I just wanted you to know that it was studied, and this legislation came out of that committee. It didn't come out of the sky, matter of fact, if I could be so bold to mention Senator Shaheen's husband was a member of the committee without drawing attention to the good Senator. You know that there were bright minds on that committee. I don't want to belabor the point, but lest you think that this fell from heaven in a handbag, it didn't, it was studied and it was looked at by professionals, and it was the recommendation of this committee to put forth this legislation. Lawyers were on it, judges, you know people that work with these . . . Thank you, Mr. President.

Senator Blaisdell has moved the question.

Adopted.

Question is on the motion of ought to pass.

Adopted.

Ordered to third reading.

Senator Russman in opposition to HB 677.

SUPREME COURT OF NEW HAMPSHIRE

Request of the Senate

No. 92-102

OPINION OF THE JUSTICES (DWI JURY TRIALS)

May 6, 1992

The following Resolution No. 1, requesting an opinion of the justices, by the senate was adopted on February 19, 1992, and filed with the supreme court on February 24, 1992:

"Whereas, there is pending in the Senate, Senate Bill 406, An Act relative to penalties for second DWI offenses; and

"Whereas an amendment has been proposed to Senate Bill 406; and

"Whereas, doubt has arisen as to the constitutionality of the provisions of said bill; and

"Whereas, it is important that the question of the constitutionality of said provisions should be settled in advance of the enactment of SB 406; now, therefore, be it

"Resolved by the Senate:

"That the Justices of the Supreme Court be respectfully requested to give their opinion on the following questions of law:

1. Would reducing the possible maximum sentence to 180 days for a person charged with a second DWI complaint and eliminating the right to a jury trial for such persons as provided in section 1 of Senate Bill 406, as amended, violate Part I, Article 15 of the New Hampshire Constitution?

2. Would reducing the possible maximum sentence to 180 days for a person charged with a second DWI complaint and eliminating the right to a jury trial for such person, as provided in section 1 of Senate Bill 406, as amended, violate any provision of the New Hampshire Constitution?

"That the clerk of the senate transmit copies of this resolution, SB 406, and the amendment to the Justices of the New Hampshire Supreme Court."

The following response is respectfully returned.

To the Honorable Senate:

The undersigned justices of the supreme court now submit the following reply to your question of February 19, 1992. Following our receipt of your resolution on February 24, 1992, we invited interested parties to file memoranda with the court on or before March 20, 1992. The date was later extended to April 14, 1992.

Part I, article 15 of the New Hampshire Constitution states in pertinent part that:

"No subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled or deprived of his life, liberty, or estate, but by the judgment of his peers, or the law of the land . . ."

This right to trial by jury has long been held to be the same as that enjoyed by criminal defendants at common law at the time of adoption of the constitution. See *State v. Morrill*, 123 N.H. 707, 712, 465 A.2d 882, 885 (1983) (right to jury trial extends only to cases for which right existed when constitution was adopted); *Wilmarth v. King*, 74 N.H. 512, 513, 69 A. 889, 889 (1908) (right to jury trial, as it existed at the adoption of the constitution, cannot be infringed by subsequent legislation); *State v. Gerry*, 68 N.H. 495, 496, 38 A. 272, 272 (1896) ("by this article trial by jury according to the course of the common law is secured to the defendant in all criminal cases without exception"); *State v. Ray*, 63 N.H. 406, 407 (1885) (pt. I, art. 15 guarantees right of trial by jury in all cases where right existed at common law at adoption of the constitution).

At the time the constitution was formed there were two classes of offenses. See *State v. Jackson*, 69 N.H. 511, 512-13, 43 A. 749, 750 (1899). Felonies were prosecuted pursuant to an indictment found by a grand jury or an information filed by the State's attorney, followed by a jury trial. Misdemeanors were heard by a justice of the peace and upon conviction, the defendant had the right to appeal and to a trial by jury. *Id.* at 513, 43 A. at 750; see also *Gerry*, 68 N.H. at 500-02, 38 A. at 275; *Ray*, 63 N.H. at 407 ("Provision is, and ever since the adoption of the constitution has been, made by statute for a trial by

jury of every crime indictable by a grand jury, and of every offense where an appeal is taken from the judgment of a justice or police court.”).

Part II, article 77 of the New Hampshire Constitution was amended in 1912, adding the following provision:

“And the general court are further empowered to give to police courts original jurisdiction to try and determine, subject to right of appeal and trial by jury, all criminal causes wherein the punishment is less than imprisonment in the state prison.”

Through this provision, justices of the peace were statutorily given jurisdiction of all cases the punishment of which is less than imprisonment in the state prison, see RSA 502:18; RSA 502-A:11, which is the equivalent of imprisonment for a term not exceeding one year. See Laws 1867, 244:8. While this constitutional amendment and subsequent legislation defined the jurisdiction of municipal and district courts, they did not limit a defendant’s statutory right to a jury trial on appeal to the superior court. See RSA 592-A:2; *State v. Ring*, 106 N.H. 509, 510-11, 214 A.2d 748, 749 (1965).

In 1973, the State legislature enacted RSA 592-A:2-b, which provides that “[t]rial by jury shall not be afforded in the superior court for any violation as defined in RSA 625:9 . . .” RSA 592-A:2-b (Supp. 1991) (amended by Laws 1988, 19:2). A violation is defined as an offense “for which there is no other penalty provided other than a fine or fine and forfeiture or other civil penalty.” RSA 625:9, V. Thereafter, in 1979, the legislature eliminated the right to trial by jury for a person charged with a first driving-while-intoxicated (DWI I) complaint by designating the offense a violation, punishable by a fine of up to \$1000 and license suspension of from sixty days to two years. Laws 1979, 362:1. The legislature eliminated any possibility of a prison sentence for the first DWI offense.

In *Ring* the question was raised whether there are certain petty or minor offenses which do not require trial by jury. We declined, however, to “render an advisory opinion which might catalog and define the extent to which minor or petty offenses may not be subject to the constitutional requirement of trial by jury.” 106 N.H. at 511, 214 A.2d at 749. In *Morrill*, we were again faced with this question and specifically asked whether the sanction of a \$1000 fine took the first DWI offense outside of the realm of petty offenses not requiring a trial by jury. 123 N.H. at 707, 465 A.2d at 882. We held that the defendant was entitled to a jury trial, and found that based upon past cases the framers of our constitution did not intend to deny individual criminal defendants a jury trial in cases where the potential fine is greater than the amount constitutionally entitling civil litigants to a jury determination. *Id.* at 712, 465 A.2d at 886. At that time the amount in controversy entitling civil litigants to trial by

jury was \$500. Today, that amount is \$1500. N.H. CONST. pt. I, art. 20. We noted, however, that our decision did not prevent the legislature from eliminating jury trials in DWI I cases by making DWI I a petty offense. Morrill, 123 N.H. at 713, 465 A.2d at 886. Thus, a violation subject to a penalty less than the amount constitutionally entitling civil litigants to a jury determination is a petty offense.

The Senate now requests our opinion on the constitutionality of eliminating the right to trial by jury for offenses punishable by less than 180 days imprisonment.

As discussed above, the right to trial by jury is the same as that afforded criminal defendants at common law at the time of adoption of the constitution. Our cases from the time of the adoption of the constitution have consistently held that part I, article 15 of the New Hampshire Constitution guarantees criminal defendants the right to trial by jury either in the first instance or on appeal to the superior court. Morrill excepts violations in which the potential fine is less than the amount entitling civil litigants to trial by jury.

The plain meaning of the language in part I, article 15 supports a finding that a defendant may not be sentenced to six months imprisonment without a trial by jury. In addition, in light of our prior decisions, we believe that our founding fathers intended to guarantee a jury trial to all criminal defendants facing the possibility of incarceration. See, e.g., Jackson, 69 N.H. 511, 43 A. 749; Gerry, 68 N.H. 495, 38 A. 272; Ray, 63 N.H. 406. Therefore, a legislative enactment entirely eliminating the right to jury trial and providing a maximum sentence of six months imprisonment would violate part I, article 15 of our constitution.

We note that *State v. Linsky*, 117 N.H. 866, 379 A.2d 813 (1977), may be read to limit a defendant's right to trial by jury to offenses which carry with them the possibility of more than six months imprisonment. This court stated that the defendants were not entitled to a jury trial because "the trial judge made it clear from the beginning of the case that he would not impose a sentence greater than six months . . ." *Id.* at 881, 379 A.2d at 823. However, *Linsky* was a criminal contempt proceeding, and the right to trial by jury has not been historically afforded criminal contempt defendants. *State v. Matthews*, 37 N.H. 450, 456 (1859). Therefore, the court's statement cannot be taken to apply to all criminal defendants.

For the foregoing reasons our opinion is that Senate Bill 406, which provides a maximum sentence of 180 days imprisonment without the right to trial by jury, would violate part I, article 15 of the New Hampshire Constitution. Accordingly, we answer question one in the affirmative, and because of this holding, we do not answer question two at this time.

David A. Brock
William F. Batchelder
William R. Johnson
W. Stephen Thayer, III
Sherman D. Horton, Jr.

May 6, 1992

Peter DeVere, of Center Sandwich, filed a memorandum in support of a negative answer to question number one.

THE SUPREME COURT OF NEW HAMPSHIRE

Request of the Senate

No. 92-236

Response to the Honorable Senate

On April 30, 1992, this court received a resolution from the senate, adopted on April 21, 1992, requesting an opinion of the justices on the constitutionality of the provisions of Senate Bill 419-FN, "An Act relative to a parental choice in education program." The court understands that the General Court will be concluding its business of the present session within a matter of days, with the result that the justices' opinion would have to be issued immediately in order to be helpful.

Our practice with respect to requests for opinions of the justices is to allow interested officials and citizens a reasonable time to submit memoranda on the questions before we respond. The questions upon which an opinion is requested in this case are indeed significant, and we would not endeavor to respond without a meaningful opportunity for comment by those interested in these questions.

The time remaining before the anticipated termination of the General Court's current session is insufficient to provide interested persons with a reasonable opportunity to address the justices or to allow the justices an adequate opportunity to consider the questions with the thoroughness their importance demands. The undersigned justices therefore respectfully request to be excused from the duty to return answers under these circumstances, which render it impossible for the justices to discharge their constitutional obligations responsibly.

David A. Brock
William F. Batchelder
William R. Johnson
W. Stephen Thayer, III
Sherman D. Horton

Enrolled Bill Amendment to SB 370

Amend the bill by inserting after section 5 the following and renumbering the original section 6 to read as 7:

6 Contingency; Renumbering. If SB 363 of the 1992 legislative session becomes law:

I. RSA 415:18-c as inserted by section 1 of this act shall be renumbered to RSA 415:18-d.

II. RSA 419:5-c as inserted by section 2 of this act shall be renumbered to RSA 419:5-d.

III. RSA 420:5-d as inserted by section 3 of this act shall be renumbered to RSA 420:5-e.

IV. RSA 420-A:7-e as inserted by section 4 of this act shall be renumbered to RSA 420-A:7-f.

V. RSA 420-B:8-e as inserted by section 5 of this act shall be renumbered to RSA 420-B:8-f.

Senator Nelson moved adoption.

Adopted.

Enrolled Bill Amendment to SB 437-FN

Amend section 1 of the bill by replacing lines 2 and 3 with the following:

inserting after chapter 420-E the following new chapter:

CHAPTER 420-F

Amend RSA 420-E:1-18 as inserted by section 1 of the bill by renumbering RSA 420-E:1-18 to read as RSA 420-F:1-18.

Amend RSA 420-F:10 as inserted by section 1 of the bill by replacing line 2 with the following:

rates as described in RSA 420-F:6, designed to permit it to accumulate and

Senator Nelson moved adoption.

Adopted.

RESOLUTION

Senator Hough moved that all Senate Bills left in Committee, Laid on the Table or not acted upon by the body in any manner with the exception of those sent to the Court for an opinion of the Justices be by this resolution made Inexpedient to Legislate.

Adopted.

**LEGISLATION INEXPEDIENT TO LEGISLATE
BY RESOLUTION**

SB 301, to reapportion the state senate districts.

SB 309, an act prohibiting the distribution of condoms to persons 21 years of age or younger on state property or in schools.

SB 310, an act establishing a chancery court within the superior court which will have jurisdiction over corporate law issues.

SB 332, an act authorizing a municipality to issue bonds to pay the costs of the cleanup of superfund hazardous waste sites.

SB 338, an act establishing the crime of official abuse.

SB 389-FN, an act allowing for the surviving spouse of a POW veteran of war to maintain the POW plates privilege.

SB 406, an act relative to penalties for second DWI offenses.

SB 416, relative to reporting contributions for testimonials.

SB 456, an act requiring parental notification before abortions may be performed on unemancipated minors.

SB 457, an act relative to sale of beverages by beverage manufacturers.

SB 468, an act relative to the authority of the ethics committee and relative to reporting gifts and honorariums.

CACR 30, a resolution relating to election of federal and state representatives.

CACR 31, a resolution relating to state spending.

SENATOR HUMPHREY: Well, Mr President, I do not know if this is redundant or not, but since it is the last opportunity, I will seize it. A number of our members are leaving voluntarily, probably a number of us will leave involuntarily, before it is all over. Senator Oleson has been here a great number of years, Senator Nelson a few, Senator Heath has been here a few, somewhere between few and a great many. I don't know how many that adds up to. I can say as a little fuzzy tailed freshman that no one that serves in this body is aware of the very great financial and familial cost that is incurred by those who have served. And for those who have served honorably and for a great many years, I think that we owe them as citizens a very deep debt of gratitude.

SENATOR HOLLINGWORTH: It's not too late guys, you can change your minds, we would like to have you do that. And gals, I didn't mean anything by it Mary, I called you one of the boys.

RESOLUTION

Senator Fraser moved that the rules of the Senate be so far suspended as to allow all bills to be placed on third reading and final passage, all titles be the same as adopted, and that they be passed at the present time.

Adopted.

Third Reading and Final Passage

HB 677-FN, an act establishing a 2-year pilot program in Rockingham county eliminating the trial de novo system in misdemeanor cases.

LATE SESSION

Senator Fraser moved that the business of the day being completed, the Senate recess to the Call of the Chair for the sole purpose of receiving House messages and Enrolled Bills Reports.

Adopted.

Recess.

Out of recess.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and Senate Bills:

HB 1005, relative to the reapportionment of the house districts within cities and the election of delegates to state party conventions.

HB 1372, placing restrictions on the sale and disposal of manganese, zinc carbon, oxide and nickel-cadmium batteries.

SB 335, authorizing the board of marital mediator certification to establish and collect certification fees, certify certain applicants and making an appropriation therefor.

SB 363, relative to health insurance coverage of autologous bone marrow transplants in the treatment of breast cancer.

SB 443, requiring the division for children and youth services to develop, implement and administer an automated case management system and making an appropriation therefor.

In recess to the Call of the Chair.

Out of Recess.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committees of Conference to which was referred the following entitled Bills:

HB 1025-A, relative to budget adjustments for fiscal years 1992 and 1993.

HB 1052, relative to the appointment of the executive director of the fish and game department and allowing the governor to make more frequent appointments to the fish and game commission.

HB 1117, relative to the minimum age requirements for liquor license applicants, relative to employing minors in licensed establishments, and relative to games and amusements on the premises of on-sale licensees.

HB 1123, establishing procedures for representation in small claims court and authorizing persons to appear for corporations, partnerships, and trusts in district court.

HB 1128, classifying certain misdemeanors as either class A or class B.

HB 1136, relative to regulation of small loans.

HB 1138, relative to the board of trust company incorporation's consideration of petitions for incorporation of savings banks.

HB 1182-FN, authorizing the division of human services to establish a system to recoup child support payments made in error, clarifying confidentiality of certain information and allowing the division to close certain cases.

HB 1255-FN, relative to the number of big bingo games charitable organizations may conduct and increasing the one game date prize total value from \$3,500 to \$14,000.

HB 1256-FN-A, requiring the department of transportation to study the United States Route 3 and New Hampshire Route 11 transportation corridor.

HB 1278-FN-LOCAL, permitting towns to make bylaws for refuse disposal in specifically-designated bags and altering district court procedure for levying fines against bylaws violators.

HB 1287-LOCAL, enabling certain municipalities to issue tax lien redemption notes and relative to the transfer of tax liens.

HB 1295, prohibiting discrimination in insurance policies against elected or appointed officials.

HB 1105, relative to disclosure of campaign contributions by candidates for local and school district elections.

HB 1175, creating a committee to study medical liability insurance in New Hampshire.

HB 1332, removing the prohibition on use or possession of tobacco products by minors.

HB 1305, permitting the carrying and selling of antique gun canes.

HB 1329-FN-L, specifying the time for the municipal treasurer to make payments of annual budget funds to the village district.

HB 1330, prohibiting certain credit card practices involving providers of travel services.

HB 1357, establishing a committee to study the concept of in-home care as an alternative to institutionalized care.

HB 1374, establishing a task force on women at risk for alcohol and other drug abuse during pregnancy.

HB 1376-FN-L, requiring the department of environmental services to assume 20 percent of eligible costs of the Conway sewer system project and making an appropriation for costs payments.

HB 1382, requiring all sellers of property to fully disclose information relative to private water supplies and septic and sewage disposal systems.

HB 1399-FN, changing the name of the board of examiners of psychologists to the board of examiners of psychology and mental health practice, expanding such board, and certifying mental health counselors.

HB 1400-FN, relative to the comprehensive shoreland protection act.

HB 1430, relative to the disclosure of certain information and re-funds relating to musical performances.

HB 1439, instituting a motor vehicle emissions inspection program and requiring a study of diesel and other vehicles.

HB 1455-FN, relative to motor vehicle laws, including suspension of wholesale motor vehicle dealer's registration, hanging disability placards, and other technical changes.

HB 1468-FN-L, relative to special education catastrophic aid.

HB 1491-FN-L, requiring professional fundraisers for police, law enforcement and firefighters' associations to register with and be regulated by the department of justice, increasing the amount of the registration fee, solicitation fee and bond, and making technical amendments to the registration law.

HB 1493-A, relative to extending the east-west highway study deadline.

HB 1495-FN, establishing a committee to study the management of New Hampshire tidal waters and related issues.

HOUSE MESSAGE

The House of Representatives has voted to discharge the Committee of Conference on the following entitled Bill:

HB 1478-FN-L, restructuring the Pease development authority.

HOUSE MESSAGE

The House of Representatives has refused to adopt the following entitled Resolution sent down from the Senate:

SCR 13, accepting the factfinder's report and recommendations relative to contract negotiations between the State Employees Association and the state of New Hampshire.

Enrolled Bill Amendment to HB 778-FN

Amend the bill by replacing section 2 with the following:

2 Remedies Authority Expanded. Amend RSA 354-A:21, II(d) to read as follows:

(d) If, upon all the evidence at the hearing, the commission shall find that a respondent has engaged in any unlawful discriminatory practice as defined in this chapter, the commission shall state its findings of fact and shall issue and cause to be served on such respondent an order requiring such respondent to cease and desist from such unlawful discriminatory practice and to take such affirmative action, including, but not limited to, hiring, reinstatement or upgrading of employees, with or without back pay, restoration to membership in any respondent labor organization, or the extension of full, equal and unsegregated accommodations, advantages, facilities and privileges to all persons, as in the judgment of the commission, will effectuate the purpose of this chapter and including a requirement for report of the manner of compliance. Such cease and desist orders for affirmative relief may be issued to operate prospectively. **The commission may also order compensatory damages to be paid to the complainant by the respondent and, in order to vindicate the public interest, order the respondent to pay an administrative fine. The administrative fine shall be deposited in the general fund. The amount of the administrative fine shall not exceed:**

(1) \$10,000 if the respondent has not been adjudged to have committed any prior discriminatory practice in any administrative hearing or civil action.

(2) \$25,000 if the respondent has been adjudged to have committed a prior discriminatory practice in any administrative hearing or civil action and the adjudication was made no more than 5 years prior to the date of filing the current charge.

(3) \$50,000 if the respondent has been adjudged to have committed 2 or more discriminatory practices in any administrative hearings or civil actions and the adjudications were made during the 7-year period preceding the date of filing of the charge.

3 Remedies. Amend RSA 354-A:21, II(f) to read as follows:

(f) If upon all the evidence the commission shall find that a respondent has not engaged in any such unlawful discriminatory practice, the commission shall state its findings of fact and shall issue and cause to be served on the complainant an order dismissing the said complaint as to such respondent. A copy of its order shall be delivered in all cases to the attorney general, and such other public officers as the commission deems relevant or proper. The commission shall establish rules of practice to govern, expedite and effectuate the foregoing procedure and its own actions thereunder. **If the commission finds that the complaint is frivolous, unreasonable, or without foundation, then the commission, upon motion of the**

respondent or on its own motion, may award against the complainant the amount of costs and attorneys' fees incurred by the respondent, provided such costs and fees are reasonable.

4 Judicial Review and Enforcement. Amend RSA 354-A:22, III to read as follows:

III. Any party may move the court to remit the case to the commission in the interests of justice for the purpose of adducing additional specified and material evidence and seeking findings thereon, **or in the alternative to move the court to accept such additional evidence itself**, provided he shows reasonable grounds for the failure to adduce such evidence before the commission. [The findings of the commission as to the facts shall be conclusive if supported by sufficient evidence on the record considered as a whole.] **The superior court shall have the authority to make all rulings of law, findings of fact and determinations of damages and fines, if any, notwithstanding any such rulings, findings or determinations made by the commission.** All such proceedings shall be heard and determined by the court as expeditiously as possible and shall take precedence over all other matters before it, except matters of like nature. The jurisdiction of the superior court shall be exclusive and its final order or decree shall be subject to review by the supreme court in the same manner and form and with the same effect as in appeals from a final order or decree in proceedings in equity.

5 New Paragraph; Federal Court Action. Amend RSA 354-A:22 by inserting after paragraph IV the following new paragraph:

V. If the complainant brings an action in federal court arising out of the same claims of discrimination which formed the basis of an order or decision of the commission, such order or decision shall be vacated and any appeal therefrom pending in any state court shall be dismissed.

6 Contingency. If HB 1283-FN of the 1992 legislative session becomes law, sections 2-6 of this act shall take effect January 1, 1993, at 12:01 a.m. and sections 1-5 of HB 1283-FN shall not take effect. If HB 1283-FN of the 1992 legislative session does not become law, sections 2-5 of this act shall not take effect.

7 Effective Date.

I. Sections 2-5 shall take effect as provided in section 6 of this act.

II. The remainder of this act shall take effect upon its passage.

Senator Nelson moved Adoption.

Adopted.

Enrolled Bill Amendment to HB 1101-FN

Amend the bill by replacing section 1 with the following:

1 Military Clubs; Special Licenses. Amend RSA 178:27, I to read as follows:

I. On-sale licensees shall pay the following applicable fees annually:

	Supplemental Only	Beverages and Wine	Beverages Cocktail and Liquor Lounge
Airport			\$1,200
Alpine Slide			1,200
Ballroom	\$45		1,200
Bed and Breakfast		\$480	\$840
Bowling Facility			1,200
Catering (all)			1,200
Catering (off-site only)			840
Catering (on-site only)		18 events - 450 36 events - 750 52 events - 1,200	
Club Military			100
Club Social		18 events - 450 36 events - 750 52 events - 1,200	1,200
Club Veterans		18 events - 450 36 events - 750 52 events - 1,200	840
College Club			1,200
Convention Center			2,400
Dining Car		480	840
Fairs		112	
Golf Facility			1,200
Hotel			840
One Day License			100
Performing Arts			360
Race Track/Motor Vehicle			1,800
Race Track/Pari-Mutuel			3,000
Racquet Sports			1,200
Rail Cars			1,200
Restaurant		480	840
Ski Facility			1,200
Special License			25
Vessel		480	840

Senator Nelson moved Adoption.

Adopted.

Enrolled Bill Amendment to SB 450-FN

Amend RSA 162-A:22 as inserted by section 3 of the bill by replacing line 3 with the following:
162-A:17, and RSA 162-I:9-b shall not exceed in the aggregate at any time

Amend section 4 of the bill by replacing lines 2-3 with the following:
section 9-a the following new section:

162-I:9-b Additional State Guarantee.

Amend section 5 of the bill by replacing lines 1-3 with the following:

5 Signature of State Treasurer. Amend RSA 162-I:8, V to read as follows:

V. The signature of the state treasurer on [any] an endorsement of a state

Amend RSA 162-I:10, I(b) as inserted by section 6 of the bill by replacing it with the following:

(b) As permitted by **RSA 162-I:9**, RSA 162-I:9-a, or **RSA 162-I:9-b**; or

Amend RSA 162-I:16, II as inserted by section 8 of the bill by replacing line 4 with the following:

162-I:9-b shall be informational and shall not be treated as determining

Amend section 16 of the bill by replacing line 4 with the following:
162-A:8, 162-A:9, 162-A:13, and 162-I:9-b. In addition, the authority
Senator Nelson moved Adoption.

Adopted.

Enrolled Bill Amendment to HB 497-FN-A

Amend the title of the bill by replacing it with the following:

AN ACT

relative to an equipment challenge grant program for
vocational and technical education programs
and making an appropriation therefor.

Senator Nelson moved Adoption.

Adopted.

Enrolled Bill Amendment to HB 1494-FN-LOCAL

Amend section 86 of the bill by deleting paragraph II and renumbering paragraphs III-XIV to reads as paragraphs II-XIII.

Amend the bill by inserting after section 89 the following and renumbering section 90 to read as 91:

90 Nullification. Sections 27-30 and 86, II and III of this act, which duplicate 1992, 38:1-5 (HB 1440-FN-LOCAL) shall not take effect.

Senator Nelson moved Adoption.

Adopted.

Enrolled Bill Amendment to HB 264-FN-A

Amend the title of the bill by replacing it with the following:

AN ACT

placing hazardous waste transporter permit application fees in the hazardous waste cleanup fund, requiring notification of associated costs of converting fuel heating systems, restricting the filling of liquefied petroleum gas containers and relative to the state advisory board of fire control.

Senator Nelson moved Adoption.

Adopted.

Enrolled Bill Amendment to HB 646-FN

Amend RSA 149-M:22, VI as inserted by section 3 of the bill by replacing line 2 with the following:

in a solid waste landfill or incinerator including any waste to

Senator Nelson moved Adoption.

Adopted.

Enrolled Bill Amendment to HB 1255-FN

Amend the title of the bill by replacing it with the following:

AN ACT

requiring the director of the sweepstakes commission to study the current operation of bingo games and sale of lucky 7 tickets.

Senator Nelson moved Adoption.

Adopted.

Enrolled Bill Amendment to HB 1295

Amend the title of the bill by replacing it with the following:

AN ACT

relative to rate modifications for individual accident and health insurance policies and relative to approval of certain motor vehicle warranty agreements and surety bonds.

Senator Nelson moved Adoption.

Adopted.

Enrolled Bill Amendment to HB 1401

Amend the bill by replacing section 3 with the following:

3 Task Force; Deadlines Extended. Amend 1991, 389:7 to read as follows:

389:7 Report.

I. The task force shall submit a report to the speaker of the house, the senate president, the governor, and the appropriate standing legislative committees with recommendations for repealing programs or responsibilities **under 1991, 389:5, I-III.** For the purposes of this section, the appropriate standing legislative committees shall be the committee of each house which has legislative jurisdiction over the program or responsibility. The report shall be submitted on or before [September 30, 1992. The task force shall be disbanded June 30, 1993.]

II. The task force shall submit a report to the appropriate legislative committees with the result of its examination under 1991, 389:5, IV, including, but not limited to, recommendations for legislation. The report shall be submitted on or before June 30, 1993. The task force shall be disbanded upon issuance of this report.

4 Contingency. If HB 1501-LOCAL becomes law, section 3 of this act shall take effect 60 days after its passage and section 2 of this act shall not take effect. If HB 1501-LOCAL does not become law, section 2 of this act shall take effect 60 days after its passage and section 3 of this act shall not take effect.

5 Effective Date.

I. Section 1 of this act shall take effect 60 days after its passage.

II. Sections 2 and 3 of this act shall take effect as provided in section 4 of this act.

III. Section 4 of this act shall take effect upon its passage.

Senator Nelson moved Adoption.

Adopted.

Enrolled Bill Amendment to HB 1357

Amend the title of the bill by replacing it with the following:

AN ACT

establishing a committee to study the concept of in-home care as an alternative to institutionalized care, allowing residential care facilities to be participating institutions under the law relative to the New Hampshire higher educational and health facilities authority, and adding home health care providers to the facilities covered under the laws relative to the higher educational building corporation.

Senator Nelson moved Adoption.

Adopted.

Enrolled Bill Amendment to HB 527-FN-A

Amend RSA 326-F:17 as inserted by section 1 of the bill by replacing line 12 with the following:

hearing under this section only by agreeing to a further suspension

Amend RSA 326-F:18 as inserted by section 1 of the bill by replacing line 6 with the following:

chapter, the person shall be guilty of a misdemeanor.

Amend section 2 of the bill by replacing lines 9-11 with the following:

speech-language pathologists shall serve terms of 2 years; and one initial appointee who is a practicing speech language pathologist shall serve a term of 3 years. Initial appointment terms shall not be considered full

Senator Nelson moved Adoption.

Adopted.

Enrolled Bill Amendment to HB 1182-FN

Amend the title of the bill by replacing it with the following:

AN ACT

authorizing the division of human services to establish a system to recoup child support payments made in error, clarifying confidentiality of certain information, and allowing the division to close certain cases.

Senator Nelson moved Adoption.

Adopted.

Enrolled Bill Amendment to HB 1305

Amend the title of the bill by replacing it with the following:

AN ACT

permitting the carrying and selling of antique gun
and sword canes and prescribing penalties
for the criminal use of pistol
canes and sword canes.

Senator Nelson moved Adoption.

Adopted.

Enrolled Bill Amendment to HB 1376-FN-LOCAL

Amend paragraph II of section 4 of the bill by replacing line 8 with the following:

section. The governor is authorized to draw his warrant for said sums out of any money in the treasury not otherwise appropriated.

Amend section 6 of the bill by replacing line 2 with the following: 1985, 390:3 and 1987, 131:3 and 1987, 399:18 to read as follows:

Senator Nelson moved Adoption.

Adopted.

Enrolled Bill Amendment to HB 1396

Amend the bill by inserting after section 3 the following and re-numbering the original section 4 to read as 5.

4 Contingency. RSA 33:6-c as inserted by section 2 of this act shall be renumbered as RSA 33:6-d, if SB 393 of the 1992 regular legislative session becomes law.

Senator Nelson moved Adoption.

Adopted.

Enrolled Bill Amendment to HB 601-FN-A

Amend RSA 231:93 as inserted by section 14 of the bill by replacing it with the following:

231:93 When Municipalities Not Liable. Municipalities shall not be deemed to have any duty of care whatsoever with respect to the construction, maintenance or repair of class I, III, ~~III-a~~ or VI highways, or state maintained portions of class II highways[, or highways to public waters laid out by a commission appointed by the governor and council]. Upon any highway or other way with respect

to which a municipality is found to have a duty of care of any kind, its liability shall be limited as set forth in this subdivision.

Amend the bill by replacing all after section 20 with the following:
21 Term Added. Amend RSA 236:118 to read as follows:

236:118 Location Requirements. At the time and place set for hearing, the local governing body shall hear the applicant and all other persons wishing to be heard on the application for certificate of approval for the location of the junk yard or automotive recycling yard. In passing upon the application, after proof of legal ownership or right to the use of the property by the applicant for the license period, it shall take into account the nature and development of surrounding property, such as the proximity of churches, schools, hospitals, public buildings or other places of public gatherings; and whether or not the use of the proposed location can be reasonably prevented from affecting the public health, safety, or morals by reason of offensive or unhealthy odors or smoke, or of other causes. In no case may a license be granted for a new junk yard or automotive recycling yard located less than 660 feet from the right-of-way lines of class I, class II, class III, or class III-a highways or located less than 300 feet from the right-of-way lines of class IV, class V and class VI highways.

22 Nullification. 1992, 88:14 which amends RSA 236:118 shall not take effect.

23 Contingency; Renumbering. If any other act of the 1992 regular session of the general court which contains an amendment to RSA 6:12, I which inserts any new subparagraph into the paragraph becomes law, the director of legislative services is authorized to renumber RSA 6:12, I(vv) as inserted by section 3 of this act and to make any technical changes to the numbering in any bill sections or RSA sections inserted by this or any other act as necessary to conform said sections to proper bill or RSA format. Any such changes shall be subject to the approval of the president of the senate and the speaker of the house of representatives. The authority granted under this section shall not include the power to make any substantive changes and shall expire upon printing of the 1992 session laws.

24 Effective Date.

I. Sections 1-7 and 21 of this act shall take effect January 1, 1993.

II. The remainder of this act shall take effect July 1, 1992.

Senator Nelson moved Adoption.

Adopted.

Enrolled Bill Amendment to HB 689-FN

Amend section 2 of the bill by replacing lines 2 and 3 with the following:

after subparagraph (q) the following new subparagraph:

(r) Administrative suspension of motor vehicle licenses pursuant

Amend the bill by replacing section 13 with the following:

13 License Restoration Fee Grace Period. Amend RSA 263:42, V to read as follows:

V. Whenever a driver's license has been suspended or revoked, or **notwithstanding RSA 263:56-a, III, whenever** the holder of a commercial driver license has been disqualified for a period of greater than 15 days, a fee of \$50 shall be paid by the licensee for the restoration of such license or commercial driver license. Under certain conditions the commissioner may waive the restoration fee for a default or suspension. The commissioner shall adopt rules, under RSA 541-A, relative to such waiver procedures.

14 Contingency. If HB 1455-FN becomes law, section 13 of this act shall take effect on January 1, 1993, and section 5 of HB 1455-FN shall not take effect. If HB 1455-FN does not take effect, section 13 of this act shall not take effect.

15 Effective Date.

I. Sections 3 and 14 of this act shall take effect 60 days after its passage.

II. Section 13 of this act shall take effect as provided in section 14 of this act.

III. The remainder of this act shall take effect January 1, 1993.

Senator Nelson moved Adoption.

Adopted.

Enrolled Bill Amendment to HB 740-FN

Amend the title of the bill by replacing it with the following:

AN ACT

increasing political expenditure limitations for certain candidates,
relative to the penalty for exceeding total expenditure limitations,
establishing a campaign spending administrative account,
relative to reporting requirements for candidates,
and making a supplemental appropriation
to the secretary of state.

Amend the last line of section 6 of the bill by replacing it with the following:

administering the election laws. The governor is authorized to draw his warrant for said sums out of any money in the treasury not otherwise appropriated.

Amend the bill by inserting after section 6 the following and renumbering the original section 7 to read as 8:

7 Contingency; Renumbering. If any other act of the 1992 regular session of the general court which contains an amendment to RSA 6:12, I which inserts any new subparagraph into the paragraph becomes law, the director of legislative services is authorized to renumber RSA 6:12, I(vv) as inserted by section 3 of this act and to make any technical changes to the numbering in any bill sections or RSA sections inserted by this or any other act as necessary to conform said sections to proper bill or RSA format. Any such changes shall be subject to the approval of the president of the senate and the speaker of the house of representatives. The authority granted under this section shall not include the power to make any substantive changes and shall expire upon printing of the 1992 session laws.

Senator Nelson moved Adoption.

Adopted.

Enrolled Bill Amendment to HB 1382

Amend the title of the bill by replacing it with the following:

AN ACT

requiring all sellers of property to fully disclose information relative to private water supplies and septic and sewage disposal systems, relative to drainage pools, exempting homeowners associations from certain registration requirements, and exempting small motor mineral dredging permits from certain requirements.

Senator Nelson moved Adoption.

Adopted.

Enrolled Bill Amendment to HB 675-FN

11Amend the bill by replacing section 1 with the following:

1 New Paragraphs; Reporting Convictions; License Revocation Extended. Amend RSA 265:82-b by inserting after paragraph VI the following new paragraphs:

VII. Any conviction under RSA 215-A:11, RSA 265:82 or RSA 265:82-a shall be reported to the commissioner of the department of safety, division of motor vehicles, and shall become a part of the motor vehicle driving record of the person convicted.

VIII. Any person convicted of a violation of RSA 215-A:11, RSA 265:82 or RSA 265:82-a and who at the time of driving a vehicle or off highway recreational vehicle was transporting a person under the age of 16 shall have his driver's license or privilege to drive revoked for the maximum time period under the section violated and shall be sentenced to not less than one nor more than 30 days.

IX. If a person has been convicted of any first offense violation of RSA 215-A:11, RSA 265:82, or RSA 265:82-a, any subsequent conviction under any of these sections shall constitute a second offense for the purposes of imposing penalties for second offense violations under RSA 265:82-b.

Amend RSA 215-A:11-h as inserted by section 19 of the bill by replacing line 3 with the following:
chapter.

Amend the bill by replacing all after section 27 with the following:

28 Reference to Motor Vehicle Violations Deleted. Amend the introductory paragraph and paragraphs I and II of RSA 502-A:19-b to read as follows:

502-A:19-b Pleas by Mail; Procedure. In any case in which a defendant may, pursuant to RSA 206:34[, RSA 262:44,] or RSA 270:11-a, enter a plea by mail in a district or municipal court, the following procedure shall be followed:

I. Such defendant shall receive, in addition to his summons, a uniform fine schedule entitled "Notice of Fine, New Hampshire District and Municipal Courts" which shall contain the [usual fines for violations of the provisions of title XXI on vehicles, excluding violations of RSA 265:79, 265:82 or any offense which is a misdemeanor or felony; the] usual fines for violations of the provisions of RSA 270, 270-A, and 270-E, excluding any offense which is a misdemeanor or felony; and the usual fines for violations of the provisions of title XVIII on fish and game laws, excluding any offense which is a misdemeanor or felony. The defendant shall be given a notice of fine indicating the amount of the fine plus penalty assessment at the time the summons is issued; except, if, for cause, the summoning authority wishes the defendant to appear personally. Defendants summoned to appear personally must do so on the arraignment date specified in the summons, unless otherwise ordered by the court. Defendants who are issued a summons and notice of fine and who wish to plead guilty or nolo contendere shall enter their plea on the summons and return it with payment of the fine plus penalty assessment to the clerk of the court prior to the arraignment date or appear in court on the date of arraignment. Defendants in violation of the provisions of title XVIII shall be subject to the provisions of RSA 207:18 and RSA 214:19.

II.(a) Whenever a defendant does not enter a plea by mail prior to the arraignment day or does not appear personally or by counsel on or before that date or move for a continuance, the defendant shall be defaulted and the court shall determine what the fine would be upon a plea of guilty or nolo contendere and shall impose an administrative processing fee in addition to the fine and penalty assessment[, and in the case of violations of title XXI, the defendant's driving privileges shall be suspended as provided in RSA 263:56-a]. The provisions of RSA 207:18 and RSA 214:19, as applicable, shall apply to a defendant in violation of the provisions of title XVIII.

(b) Whenever a defendant otherwise fails to appear for a scheduled court appearance in connection with a summons for any violation level offense set forth in [titles] **title XVIII**[, **XXI**] or **XXII**, the court shall proceed to hear the state's evidence, by offer of proof or otherwise, and enter a finding in accordance therewith. In the event a finding of guilty is made, the court shall set the fine, and the clerk shall forthwith mail or deliver to the defendant at the defendant's last known mailing address a notice of finding and imposition of fine form approved by the administrative judge of the district court, appointed pursuant to supreme court rule. Payment of the fine in full shall be required no later than 30 days from the date of said notice. Upon the failure of any defendant to remit said payment, the procedure required by subparagraph II(a) shall be followed by the court. No finding made by the court under this section shall be set aside except for good cause shown.

(c) In defaulted cases of violations of [title XXI or] **title XVIII**, the court shall notify [the director of the division of motor vehicles of the defendant's default of a title XXI violation, or] the executive director of the department of fish and game of the defendant's default of a title XVIII violation, and the amounts of the fine and other penalties on a form prescribed by the [director of the division of motor vehicles or] the executive director of the department of fish and game[, as appropriate]. The amount of the administrative processing fee shall be determined by the New Hampshire supreme court in accordance with the provisions of paragraph V of this section.

29 Contingency.

I. If HB 1494-FN-LOCAL does not become law:

(a) Section 28 of this act shall not take effect; and

(b) Sections 23-26 of this act shall take effect for the courts in Rockingham county on January 1, 1993. For the courts in the remaining counties, sections 23-26 of this act shall take effect as each court is computerized in coordination with the division of motor vehicles, beginning in January, 1994 and continuing thereafter in each jurisdiction as each court is computerized.

II. If HB 1494-LOCAL becomes law:

(a) Section 24 of this act shall not take effect; and

(b) For the courts in Rockingham county, sections 23 and 25-27 of this act shall take effect on January 1, 1993, and section 28 shall take effect on January 1, 1993, at 12:01 a.m. For the courts in the remaining counties, sections 23 and 25-28 of this act shall take effect as each court is computerized in coordination with the division of motor vehicles, beginning in January, 1994 and continuing thereafter in each jurisdiction as each court is computerized.

30 Effective Date.

I. Section 27 of this act shall take effect July 1, 1992.

II. Section 29 of this act shall take effect upon its passage.

III. Sections 23-26 and 28 of this act shall take effect as provided in section 29 of this act.

IV. The remainder of this act shall take effect January 1, 1993.

Senator Nelson moved Adoption.

Adopted.

Enrolled Bill Amendment to SB 319

Amend the title of the bill by replacing it with the following:

AN ACT

increasing medicaid eligibility for pregnant women and infants.

Amend the bill by deleting sections 1-3 and renumbering sections 4-6 to read as 1-3, respectively.

Senator Nelson moved Adoption.

Adopted.

Enrolled Bill Amendment to SB 428-FN

Amend the bill by replacing section 4 with the following:

4 Notice Required; Flowage Rights Added. Amend RSA 483:6, I to read as follows:

I. Any New Hampshire organization or resident may nominate a river or any segment or segments of such river for protection by submitting to the commissioner a description of the river or segment or segments of such river and its values and characteristics. The completed nomination shall be submitted to the rivers coordinator on or before July 15 in order for it to be considered in the next legislative session. This nomination shall include, but not be limited to, an assessment of fisheries; geologic and hydrologic features; vegetation; wildlife; historical and archaeological features; open space

and recreation features and potential; water quality and quantity; dams, buildings, and other man-made structures; riparian interests, **including flowage rights known by the nominating individual or group**, and other pertinent instream and riverbank information. The nominating party shall hold at least one public meeting on the information prior to final submittal to the commissioner. The nominating party shall advertise the meeting in cooperation with the rivers coordinator[,] **and shall give written notice to the governing body of any municipality where segments of the river are located.** [and] The rivers coordinator shall provide assistance to the nominating party in the presentation of the nomination at the public meeting.

Amend the bill by deleting section 9 and renumbering the original sections 10 and 11 to read as 9 and 10, respectively.

Senator Nelson moved Adoption.

Adopted.

Enrolled Bill Amendment to SB 314-FN-A-LOCAL

Amend RSA 76:16-a, I as inserted by section 2 of the bill by replacing it with the following:

I. After the selectmen neglect or refuse to so abate, in accordance with RSA 76:16, any person aggrieved, having complied with the requirements of RSA 74, upon payment of a [\$40] **\$65** filing fee, may, within 8 months after notice of such tax, and not afterwards, **unless the municipality shall have an additional 2 months to respond to the appeal as provided in RSA 76:16, II**, apply in writing to the board of tax and land appeals which, after inquiry and investigation, shall hold a hearing if requested as provided in this section and shall make such order thereon as justice requires; and such order shall be enforceable as provided hereafter. "Notice of such tax" means the date the board of tax and land appeals determines to be the last date of mailing of the final tax bill by the taxing district. The person aggrieved shall state in its appeal to the board either the date of the municipality's decision on the RSA 76:16 application, or that 6 months has passed since the notice of the tax and that the municipality failed to issue a decision in accordance with RSA 76:16.

Amend section 6 of the bill by replacing it with the following:

6 Effective Date.

I. Sections 1, 3, and 4 of this act shall take effect April 1, 1992, at 12:01 a.m.

II. Section 2 of this act shall take effect April 1, 1992, at 12:02 a.m.

III. The remainder of this act shall take effect upon its passage.
Senator Nelson moved Adoption.
Adopted.

**PROCEDURAL RULES
OF THE
COMMITTEE ON LEGISLATIVE ETHICS**

(1) Applicability and Definitions.

(a) All proceedings of the committee on legislative ethics, created by RSA ch. 14-B, shall be governed by these rules.

(b) As used herein, the following terms shall have the following meanings:

(1) "Legislator" includes representatives, senators, and legislative officers.

(2) "Proceeding" includes each step taken or which may be taken under these rules with respect to a complaint filed with the committee alleging violation of the ethics guidelines by a legislator.

(3) For the purposes of these rules, a "hearing" is that procedure which follows a statement of formal charges.

(2) Meetings, Conduct of Business, Staff, Quorum and Disqualification.

(a) The committee may, by vote, establish regular or stated meeting dates. In addition, special meetings of the committee may be called by the chairperson or the vice-chairperson, or at the written request of three members of the committee.

(b) The business of the committee may be transacted by telephone, exchange of correspondence, or other informal poll of members, unless one or more members object; provided, however, that no formal charges shall be instituted or regular investigation ordered or unfavorable action taken against a legislator except upon deliberation and the affirmative vote of at least five members at a meeting of the committee.

Members of the committee may participate in a meeting of the committee by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear other at the same time. Participation by these means shall constitute presence in person at a meeting.

(c) A quorum for the transaction of business by the committee shall be five members. No action of the committee shall be valid unless concurred in by five of its members, except as otherwise provided in these rules.

(d) No member of the committee shall participate in any proceeding in which his or her impartiality might reasonably be questioned.

(3) Confidentiality of Proceedings.

(a) Except as provided in this section, all proceedings before the committee, and all information, communications, materials, papers, files and transcripts, written or oral, received or developed by the committee in the course of its work, shall be confidential. No member of the committee or its staff and no employee of the committee shall disclose such proceedings, information, communications, materials, papers, files and transcripts, except in the course of official duty or as otherwise authorized in this section.

(b) Every witness and other participant at a hearing before the committee shall be required to take an oath of secrecy.

(c) A complainant in any proceeding not resulting in formal charges being filed with the Legislature shall be required to take an oath to keep secret any information divulged by the committee regarding the disposition of the complaint (except a disposition described in subsection (g) of this section), unless the legislator concerned has waived his right to confidentiality.

(d) A legislator against whom a proceeding is pending may request the committee to conduct the proceeding publicly. In such case, any hearing conducted by the committee in the proceeding shall be open to the public and the committee may disclose such information about the proceeding as it deems appropriate.

(e) If a legislator is publicly charged, through independent sources, with involvement in a proceeding before the committee, or publicly charged with conduct likely to become the subject of a proceeding, the committee may, at the request or with the consent of the legislator involved, issue brief public statements as it deems appropriate in order to confirm or deny the pendency of the proceeding, to clarify the procedural aspects thereof, to explain the right of the legislator to a fair hearing without prejudgment, and to state that the legislator denies the allegations.

(f) If the pendency of a proceeding before the committee is generally known to the public, through independent sources, and the subject matter thereof is of broad public interest or speculation, and public confidence in the administration of the ethics guidelines may be threatened because of lack of information concerning the status of the proceeding and the requirements of due process, the committee may, on its own motion, issue brief statements as it may deem appropriate in order to confirm the existence of the investigation, to clarify the procedural aspects of the proceeding, to explain that the legislator is entitled to due process, and to state that the legislator denies the allegations.

(g) If the committee, at any stage of a proceeding, dismisses a complaint or formal charges, whether from insufficiency of the complaint or because there is insufficient cause to proceed further with

the matter or for other reason, the committee shall inform the complainant of such disposition. In addition, the committee may, at the request or with the consent of the legislator concerned, issue a short explanatory statement to the public.

(h) If the committee disposes of a proceeding by corrective action or by written reprimand or by other informal resolution, it shall inform the complainant that it has taken appropriate remedial action of a private nature (but shall not disclose the details of such action).

(i) This section shall not be construed to prohibit the committee from preparing and releasing to the public materials which are not related to any particular proceeding or situation. Such materials may include explanations of:

(1) The jurisdiction of the committee and the limitations upon its powers and authority;

(2) The procedure for filing complaints; and

(3) The internal procedures of the committee.

In addition, the committee may release periodic statistical reports of its work which do not identify or permit the identification of any person involved in any proceeding before the committee.

(j) Nothing herein shall prevent the committee from responding to unjustified public criticism of a legislator which is not the subject of a proceeding, and the committee may so respond in appropriate cases upon deliberation and the affirmative vote of at least five members at a meeting of the committee.

(k) Any violation of these provisions relating to confidentiality, and any violation of an oath of secrecy administered hereunder, shall constitute a violation of the ethics guidelines. The committee may enforce these provisions by appropriate proceedings. Notwithstanding the provisions of this rule, the committee may disclose to an appropriate law enforcement authority any matter that comes before it.

(4) Initial Review of Complaints.

(a) Each complaint shall be submitted in writing and signed under oath by the complainant. The legislator complained against shall be furnished with a copy of the complaint, and a copy shall be sent to each member of the committee for review.

(b) The committee shall evaluate each complaint promptly after receipt to ascertain whether the committee has jurisdiction to consider the same under RSA ch. 14-B. If it clearly appears on the face of the complaint or from preliminary inquiries by the committee that the complaint does not allege conduct on the part of the legislator which, if established, would be contrary to the ethics guidelines, the committee shall dismiss the complaint, and shall notify the complainant in writing that the matter raised is outside the committee's jurisdiction, assigning the reason therefor.

(c) If the committee determines, upon preliminary review, that a complaint is obviously without merit or is obviously unfounded, it shall dismiss the complaint and advise the complainant in writing of such action.

(d) The committee shall dismiss any complaint arising out of acts or omissions occurring more than two years prior to the receipt of the complaint, and the complainant shall be so advised in writing. However, when the last episode of an alleged pattern of recurring legislative conduct arises within the two year period, the committee may consider all prior acts or omissions alleged to be a part of such pattern.

(e) Receipt by the committee of a complaint which is repetitive of a prior complaint, whether from the same or a different source, following disposition of the initial complaint, shall be acknowledged, but the committee shall take no further action thereon.

(f) Any complaint which appears to have merit, but which is defective in some respect so that the committee cannot act thereon, or requires clarification, may be returned to the complainant for curative action or clarification and resubmission.

(g) The legislator concerned shall be notified promptly in writing of any action taken by the committee pursuant to this section.

(5) Response by Legislator.

(a) Except where the complaint has been dismissed pursuant to subsections (b), (c), or (d) of section 4 of these rules, the legislator complained against shall respond in writing to the merits of the complaint within twenty days after receipt from the committee of a copy thereof. Such response shall be filed with the committee which shall communicate to the complainant the substance of the legislator's response.

(b) In addition to such required response, the legislator may submit to the committee such other matters as he may choose.

(6) Preliminary Investigation.

(a) The committee may order an investigation of any complaint properly before it, upon the affirmative vote of five or more members of the committee taken at a meeting thereof. Such investigation shall be conducted under the direction of the chairperson and in such manner as he may determine.

(b) The legislator shall be notified of the investigation, and afforded a reasonable opportunity to present such relevant matters as he may choose.

(c) In conducting an investigation, the chairperson may require that any statement or written information furnished to the committee be given under oath or affirmation subject to the penalties for perjury or false swearing in official proceedings pursuant to RSA ch. 641.

(d) Persons contacted for information shall be informed of their obligation to maintain confidentiality.

(e) If the investigation does not disclose sufficient cause to warrant further proceedings, the committee shall dismiss the complaint, and shall promptly notify the legislator and the complainant in writing of such dismissal. In other cases not thought to merit the presentation of formal charges and hearing, the committee may informally resolve the matter with the consent of the legislator. Such informal resolution may take the form of written private advice or admonishment, the requirement of remedial action, or the imposition of conditions, or any combination thereof. The consent of the legislator to informal resolution of the matter shall constitute a waiver of his right to a hearing. If a complaint is disposed of by way of informal resolution or adjustment, disclosure to the complainant shall be limited as provided in subsection (h) of section (3) of these rules and the complainant shall be required to take an oath of secrecy as provided by subsection (c) of section (3).

(7) Statement of Formal Charges, Notice of Hearing, and Answer.

(a) If, after investigation the committee concludes, by the affirmative vote of five or more members taken at a meeting, that formal proceedings should be instituted to inquire into any complaint, it shall prepare and file a formal statement of charges and shall set a time and place of hearing before itself. The committee shall promptly serve the legislator, by registered or certified mail, postage prepaid, with a copy of the formal statement of charges together with a notice of hearing.

(b) The formal statement of charges shall (i) contain a clear summary of the allegations against the legislator and of the alleged facts forming the basis of such allegations (including facts developed by the investigation), (ii) identify and cite those standards of the ethics guidelines alleged to have been violated, and (iii) advise the legislator of his duty to answer as provided in subsection (f) of this section.

(c) The formal statement of charges together with the notice of hearing shall be served on the legislator at least thirty days prior to the hearing date assigned.

(d) The notice of hearing shall include the following:

(1) the date, time and place of the hearing;

(2) the fact that both the committee and the legislator may be represented by counsel at the hearing, may secure the attendance of witnesses and the production of documents by subpoena, and may examine and cross-examine witnesses;

(3) the identity of any special counsel for the committee; and

(4) the fact that all further notices concerning the hearing, including any adjournments thereof, shall be given by the chairperson or pursuant to his direction.

(e) The committee shall give notice to the complainant of the date, time and place of the hearing. He shall be entitled to attend the hearing as an observer, and may be required to attend and participate therein as a witness, but shall have no other function or right with respect to the hearing.

(f) Within twenty days after receipt of the formal statement of charges, the legislator shall file an answer with the committee, setting forth all denials, affirmative defenses, mitigating circumstances and other matters which the legislator intends to raise at the hearing.

(g) At any time prior to final decision, the committee may allow or require an amendment of the formal statement of charges, and may allow an amendment of the answer. When an amendment is made to the formal statement of charges, whether before or after commencement of the hearing, the legislator shall be afforded a reasonable opportunity to answer the matters newly charged, as determined by the chairperson, and shall answer such matters within the time allowed. In any such case, the legislator shall also be afforded a reasonable time, as determined by the chairperson, in which to prepare his defense to the matters newly alleged.

(h) For good cause shown, the chairperson may extend the time within which the legislator is required to file his answer, and may grant a continuance of the scheduled hearing, but no such extension or continuance shall be for a period longer than thirty days without the concurrence of the committee.

(i) The committee may terminate the proceeding and dismiss the complaint and formal statement of charges following the answer by the legislator, or at any time thereafter, and shall in that event give notice to the legislator and the complainant that it has found insufficient cause to proceed.

(8) Discovery and Subpoena Powers.

(a) At any time after the filing of a formal statement of charges, the legislator or his counsel shall, upon written request, be entitled, as a matter of course:

(1) to obtain the names and addresses of all persons known to the committee to have relevant information;

(2) to examine and copy any of the following:

(A) statements of the complainant;

(B) statements of persons claiming to have knowledge of the acts, omissions or events underlying the formal proceeding;

(C) investigative reports made by or for the committee in connection with the proceeding; and

(D) any other writing or item which is relevant to the proceeding, or which appears likely to lead to relevant information.

(3) Anything in this section to the contrary notwithstanding, the committee shall not be required to disclose to the legislator the identity of any informant who will not be called as a witness in support of the charges, and who has declined to sign a written complaint, unless the alleged misconduct was directed at the informant.

(b) The legislator shall make available to the committee, as a matter of course, upon the written request of the chairperson, or special counsel, any specified material which would be discoverable in civil proceedings in this State.

(c) Nothing in this section shall authorize access to any information, writing or other item which is privileged by law, or which is protected as an attorney's work product.

(d) The committee shall have the power to subpoena witnesses, compel their attendance and testimony, and require the production of books, records, documents or other evidence or material deemed relevant to the investigation or hearing. Such subpoena powers may be exercised for the committee by the chairperson or special counsel to the committee.

(e) The subpoena powers of the committee shall be exercised in behalf of the legislator, upon his written request or the written request of his counsel.

(9) Conduct of Hearing.

(a) The hearing shall not be open to the public unless the legislator so requests.

(b) The committee may proceed with the hearing at the time and place fixed, whether or not the legislator has filed an answer or appears for the hearing. The committee may draw an unfavorable inference from the failure of the legislator to answer or appear; but no such failure, standing alone, shall be sufficient to meet the standard of proof.

(c) The committee shall have the burden of establishing by clear and convincing evidence a violation of the ethics guidelines. The legislator shall not be required to testify or present affirmative evidence in his own behalf.

(d) The legislator shall be entitled to counsel of his choice, and shall have the right to adduce evidence, produce and cross-examine witnesses, and present all relevant arguments.

(e) The committee shall not be bound by the technical rules of evidence, and may admit evidence which it considers to be reliable, material, and relevant. The chairperson shall rule on objections to the receipt of evidence, subject to being overruled by a majority of the committee present at the hearing. The chairperson may defer ruling on an objection to the receipt of evidence, and admit evidence subject to later ruling thereon.

(f) The hearing shall be recorded verbatim by stenographic, electronic or other means approved by the committee. A transcript of the hearing shall be provided to the legislator without cost. The legislator may tape record the hearing with the permission of the committee.

(g) The decision of the committee shall be based solely on the record evidence presented to the committee at the hearing, but shall not be based solely on hearsay evidence. The committee shall exclude from its consideration any information reviewed in earlier stages of the proceeding, unless such information is received in evidence at the hearing so as to become a part of the record.

(h) At any time after the hearing is closed but prior to final decision, the committee may reopen the hearing for the taking of additional evidence. The legislator and the complainant shall be given such notice of any supplemental session as the circumstances may reasonably require.

(10) Dispositions Following Hearing.

(a) The committee shall render its decision promptly after the hearing.

(b) If the committee decides that a violation of the ethics guidelines has not been established, the proceeding shall be dismissed, and the legislator and the complainant shall be so notified.

(c) If the committee determines, by the affirmative vote of at least five of its members, that there has been a violation of the ethics guidelines, but that the violation is not of a sufficiently serious nature to warrant the imposition of formal discipline by the Legislature, it shall dispose of the matter by informal resolution or adjustment. Such disposition may take the form of privately admonishing the legislator, issuing a private reprimand, requiring corrective action, directing professional counseling or assistance, imposing conditions on the legislator's conduct, or other similar remedial action, or any combination of the foregoing. Prior to deciding upon such a disposition, the committee may afford the legislator an opportunity to meet with it or its designated member or members to discuss the matter. These informal adjustments shall be the usual and customary procedures to be employed by the committee in disposing of a case where a violation of the ethics guidelines has been found. If a proceeding is disposed of by informal resolution or adjustment pursuant to this subsection (c), disclosure to the complainant shall be limited as provided in subsection (h) of section (3) of these rules, and the complainant shall be required to take an oath of secrecy as provided by subsection (c) of section (3).

All private admonishments, reprimands and other informal adjustments shall be reduced to writing.

(d) If the committee determines, by the affirmative vote of at

least five of its members, that the legislator complained against has violated the ethics guidelines and that the violation is of a serious nature so as to warrant formal disciplinary action by the Legislature, the committee shall prepare a summary report of the proceeding and of its findings. Such report shall include the recommendations of the committee (if any) concerning the sanctions to be imposed. Any member who dissents from the determination of the committee may prepare a minority opinion which shall be appended to the report of the committee. The committee shall also prepare a record of the proceeding, which shall include the committee's formal statement of charges, the legislator's answer, any other pleadings, and a transcript of the hearing. The committee's report, certified by the chairperson, shall be filed with the clerk of the appropriate house of the Legislature. Contemporaneously with such filing, copies shall be served on the legislator.

(11) Use of Closed Files.

(a) A closed file may be referred to by the committee in subsequent proceedings in the following circumstances:

(1) Where a complaint or formal charges have been dismissed for any reason or there has been a finding of insufficient cause to proceed, and the subsequent proceeding raises similar allegations against the legislator or is based upon a similar occurrence or factual situation, the closed file may be used to exonerate the legislator or may be made a part of the investigation of the new complaint; or

(2) Where, after the disposition of a prior proceeding by informal resolution or adjustment, the legislator fails to refrain from acting in the manner that caused the prior complaint to be filed and a subsequent complaint is filed alleging similar conduct which is established or proven, the closed file may be used as evidence tending to show that the problem is a continuing one; or

(3) Where, following the hearing of subsequent related or unrelated charges, the committee determines that a violation of the ethics guidelines has occurred, the closed file may be referred to in connection with the decision as to the nature of the informal resolution to be imposed by the committee or as to the sanction to be recommended to the Legislature.

Approved and adopted: April 27, 1992

ETHIC GUIDELINES

Pursuant to RSA 14-B:3 II, advisories adopted by the Legislative Ethics Committee.

1992-1, March 9, 1992

The prohibition set forth in Part IV, 1 does not extend to the receipt by a legislator of anything of value on behalf of an entity in which the legislator has no financial interest as defined in Part II, 3. 1992-2, March 9, 1992

The definition of anything of value does not include the receipt of discounts so long as such discounts are offered to legislators generally, including those from other states. 1992-3, April 27, 1992

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled bills has examined and found correctly Enrolled the following entitled Senate Bills:

SB 62, requiring the introduction of legislation in the 1993 session relative to athletic trainers and the board of registration in medicine.

SB 304, relative to business assistance and institutional arrangements.

SB 343, relative to reconsideration of town meeting and school district meeting votes.

SB 362, redefining proprietary medicines to include nonprescription medicines and exempting non-pharmacy retail stores and outlets from classification as pharmacies for the purpose of RSA 318.

SB 375, allowing the division of parks and recreation to give rewards for information leading to the recovery of stolen division property.

SB 376, relative to congregate services programs.

SB 378, transferring certain duties under the uniform reciprocal enforcement of support act from county attorneys to the division of human services and providing for a transition period for such transfer.

SB 410, creating a task force to study establishing precautionary measures to be followed by health care workers to control the spread of AIDS, hepatitis and tuberculosis.

SB 472, relative to modifying sexual assault statutes and continuing a study committee.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled bills has examined and found correctly Enrolled the following entitled House and Senate Bills:

HB 264, placing hazardous waste transporter permit application fees in the hazardous waste cleanup fund, requiring notification of

associated costs of converting fuel heating systems, restricting the filling of liquefied petroleum gas containers and relative to the state advisory board of fire control.

HB 497, relative to an equipment challenge grant program for vocational and technical education programs and making an appropriation therefor.

HB 1128, classifying certain misdemeanors as either class A or class B.

HB 1255, requiring the director of the sweepstakes commission to study the current operation of bingo games and sale of lucky 7 tickets.

HB 1295, relative to rate modifications for individual accident and health insurance policies and relative to approval of certain motor vehicle warranty agreements and surety bonds.

HB 1344, requiring the house environmental and agriculture and the senate environment committees to review the laws relative to solid waste management and authorizing a municipality to issue bonds to pay the cost of the cleanup of superfund hazardous waste sites.

HB 1357, establishing a committee to study the concept of in-home care as an alternative to institutionalized care, allowing residential care facilities to be participating institutions under the law relative to the NH higher educational and health facilities authority, and adding home health care providers to the facilities covered under the laws relative to the higher educational building corporation.

HB 1399, changing the name of the board of examiners of psychologists to the board of examiners of psychology and mental health practice, expanding such board, and certifying mental health counselors.

HB 1401, requiring the mandates task force to study the impact of the development of the prison facility in the city of Laconia.

HB 1455, relative to motor vehicle laws, including suspension of wholesale motor vehicle dealer's registration, hanging disability placards, other technical changes, and relative to nonresident automobile insurance.

HB 1494, implementing the recommendations of the NH supreme court long-range planning task force regarding the judicial branch.

SB 321, relative to voter registration and changes in party affiliation with town clerks and relative to supervisors of the checklist.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled bills has examined and found correctly Enrolled the following entitled House and Senate Bills:

HB 61, repealing the prospective repeal of victims' assistance fund and making technical corrections in the distribution of penalty assessment funds.

HB 321, relative to small employer insurance and creating the position of life, accident and health actuary within the insurance department and making an appropriation therefor.

HB 411, relative to discrimination in the issuance of health insurance, access to group plans, and health insurance during adoption proceedings.

HB 677, establishing a 2-year pilot program in Rockingham county eliminating the trial de novo system in misdemeanor cases.

HB 778, relative to the laws against discrimination.

HB 1052, relative to the appointment of the executive director of the fish and game department and allowing the governor to make more frequent appointments to the fish and game commission.

HB 1101, relative to certain liquor license fees and expanding certain prohibitions regarding competing interest in liquor and wine sales.

HB 1117, relative to the minimum age requirements for liquor license applicants, relative to employing minors in licensed establishments, and relative to games and amusements on the premises of on-sale licensees.

HB 1123, establishing procedures for representation of corporations, partnerships, and trusts in small claims actions.

HB 1330, prohibiting certain credit card practices involving providers of travel services.

HB 1136, relative to the regulation of small loans and second mortgage home loans.

HB 1138, relative to the board of trust company incorporation's consideration of petitions for incorporation of savings banks.

HB 1256, requiring the department of transportation to study the U.S. Rt. 3 and NH Rt. 11 transportation corridor.

HB 1278, permitting towns to make bylaws for refuse disposal in specifically-designated bags and altering district court procedure for levying fines against bylaws violators.

HB 1374, establishing a task force on women at risk for alcohol and other drug abuse during pregnancy.

HB 1400, relative to the comprehensive shoreland protection act.

HB 1430, relative to the disclosure of certain information relating to musical performances.

HB 1439, instituting a motor vehicle emissions inspection program and requiring a study of diesel and other vehicles.

HB 1468, relative to special education catastrophic aid.

HB 1491, requiring professional fundraisers for police, law enforcement and firefighters associations to register with and be regulated by the department of justice, increasing the amount of the registration fee, solicitation fee and bond, and making technical amendments to the registration law.

HB 1495, establishing a committee to study the management of NH tidal waters and related issues.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled bills has examined and found correctly Enrolled the following entitled Senate Bills:

SB 324, establishing a commission on the family and permitting Jewish Rabbis who are not citizens of the US to solemnize marriages.

SB 370, relative to health insurance coverage for scalp hair prostheses.

SB 399, requiring rabies shots for cats.

SB 437, relative to the NH Dental Service Corporation.

SB 452, redistricting certain district courts.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled bills has examined and found correctly Enrolled the following entitled House and Senate Bills:

HB 646, relative to the disposal of certain solid waste products and leaf and yard waste.

HB 758, relative to the right to privacy act.

HB 1329, relative to payments of annual budget funds to village districts and relative to the Sugar Hill annual town meetings.

HB 1493, increasing the appropriation to the east-west highway study and extending the study deadline.

SB 339, relative to regulatory reform and transferring certain responsibilities relative to securities regulation from the department of justice to the secretary of state.

SB 393, relative to infrastructure development and making appropriations therefor.

SB 428, designating segments of the Connecticut River for the rivers management and protection program, reclassifying a segment of the Contoocook River, allowing existing hydroelectric facilities to maintain operations, and requiring the establishment of procedures before water can be released from dams.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled bills has examined and found correctly Enrolled the following entitled Senate Bills:

SB 314, making a supplemental appropriation for the board of tax and land appeals and increasing filing fees for appeals to the board.

SB 319, increasing medicaid eligibility for pregnant women and infants.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled bills has examined and found correctly Enrolled the following entitled House and Senate Bills:

SB 308, revising the business corporation act.

HB 527, licensing speech-language pathologists and making an appropriation therefor.

HB 601, establishing a public water access advisory board and a statewide public boat access program and continually appropriating a special fund for the purposes of the program and creating a new class of highway for access to public waters.

HB 689, relative to implied consent and administrative motor vehicle license suspension.

HB 740, increasing political expenditure limitations for certain candidates, relative to the penalty for exceeding total expenditure limitations, establishing a campaign spending administrative account, relative to reporting requirements for candidates, and making a supplemental appropriation to the secretary of state.

HB 1182, authorizing the division of human services to establish a system to recoup child support payments made in error, clarifying confidentiality of certain information, and allowing the division to close certain cases.

HB 1305, permitting the carrying and selling of antique gun and sword canes and prescribing penalties for the criminal use of pistol canes and sword canes.

HB 1376, relative to water pollution, including requiring the department of environmental services to assume 20 percent of eligible costs of the North Conway Water Precinct sewer system project, making an appropriation for cost payments relative to aid for water pollution control for regional waste treatment facilities for Winnepesaukee river basin, establishing a grant program for water pollution, and relative to future funding of certain classified positions within the department of environmental services.

HB 1396, authorizing municipalities to incur debt in the form of bonds guaranteed by the state of New Hampshire to assist municipalities, towns, cities, counties or districts to close landfills and to clean up certain hazardous waste sites.

HB 1382, requiring all sellers to property to dully disclose information relative to private water supplies and septic and sewage disposal systems, relative to drainage pools, exempting homeowners associations from certain registration requirements, and exempting small motor mineral dredging permits form certain requirements.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled bills has examined and found correctly Enrolled the following entitled House and Senate Bills:

HB 1025, relative to budget adjustments for fiscal years 1992 and 1993.

HB 675, relative to DWI penalties while operating a motor vehicle, OHRV, or boat, or while transporting a child, and establishing that fines for summonses for motor vehicle violations for which a plea may be made by mail be paid to the division of motor vehicles and making an appropriation therefor.

SB 450, relative to capital formation.

Recess.

Out of recess.

HOUSE MESSAGE

The House has voted to sustain the Governor's veto on the following Bill:

HB 1498-FN, relative to drug forfeiture.

HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled Bill:

HB 1026, relative to a companion bill to the supplemental budget.

Enrolled Bill Amendment to HB 1026

Amend RSA 6:12, I(tt) as inserted by section 12 of this act by replacing it with the following:

(tt) Moneys received from the town clerk under RSA 126:13, II, **and by the division of public health services under RSA 126:15, II**, which shall be credited to the vital records improvement fund established in RSA 126:31.

Amend the bill by replacing section 24 with the following:

24 Vital Records Fees. Amend RSA 126:15, II to read as follows:

II. The town clerk shall forward \$6 of each search fee collected under this section to the [state treasurer] **division of public health services** for deposit in the vital records improvement fund established under RSA 126:31 and shall retain the remaining \$4 as his fee for issuing such a copy. For subsequent copies issued at the same time, the town clerk shall forward \$3 of the fee collected for each subsequent copy under this section to the [state treasurer] **division of public health services** for deposit in the vital records improvement fund established under RSA 126:31, and the town clerk shall retain the remaining \$3 as his fee for issuing such a copy. The town clerk shall retain the \$25 fee for a delayed birth certificate as his fee for examining documents and issuing the delayed birth certificate.

Amend section 33 of the bill by replacing line 7 with the following:

Further, the board shall adopt rules under RSA 541-a relative to the establishment and

Amend RSA 221-A:5-a, IV as inserted by section 35 of the bill by replacing line 3 with the following:

monitoring endowment shall remain effective unless and until amended

Amend RSA 471-C:3-a, III as inserted by section 52 of the bill by replacing it with the following:

III. Paragraph I shall apply to all property held on [the effective date of this section] **April 13, 1990**, or at any time after such date, regardless of when such property [shall be deemed] **became or becomes** presumptively abandoned.

Amend the bill by replacing section 57 with the following:

57 Appropriation to Department of Postsecondary Technical Education Increased. 1992, 259:3 is repealed and reenacted to read as follows:

3 Appropriation; Department of Postsecondary Technical Education. The sum of \$100,000 is appropriated to the department of postsecondary technical education for the purposes of this act. This appropriation shall be nonlapsing. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

Amend section 61 of the bill by replacing paragraph III with the following:

III. The appropriation made to the university system of New Hampshire in 1989, 367:2, D and E, as amended by 1991, 351:27, II(h), for Mason Library renovations in Keene, design of a biological lab, and Dimond Library design and shelving in Durham.

Amend the bill by replacing section 66 with the following:

66 Effective Date.

I. Section 9 of this act shall take effect July 1, 1994 at 12:01 a.m.

II. Section 43 of this act shall take effect January 1, 1994.

III. Sections 16, 21, 38-41, 44, and paragraphs I and II of section 64 shall take effect July 1, 1992.

IV. Sections 24 and 57 shall take effect July 1, 1992, at 12:01 a.m.

V. The remainder of this act shall take effect upon its passage.

Amend the bill by deleting section 58 and renumbering the original sections 59-66 to read as 58-65.

Senator Shaheen moved adoption.

Adopted.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House Bill:

HB 1026, relative to a companion bill to the supplemental budget.

Enrolled Bill Amendment to SB 321

Amend the title of the bill by replacing it with the following:

AN ACT

relative to voter registration and changes in party affiliation with town clerks and relative to supervisors of the checklist.

Senator Nelson moved adoption.

Adopted.

Recess.

Out of Recess.

LATE SESSION

Senator Delahunty moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until Wednesday, June 17 at 4:00 p.m.

Adopted.

Adjournment.

June 17, 1992

The Senate met at 4:00 p.m.

A quorum was present.

The prayer was offered by the Rev. David P. Jones, Senate guest Chaplain.

The Latin word for "veto" literally means "I forbid". The English word "override" means "Oh, no you don't".

Whatever the outcome of your vote, we are each about to be reminded of that difficult life lesson which says, no one ever gets everything he wants or she wants all the time. The fact that we don't is good news, for sometimes, hell is when God gives you what you thought you wanted. It is a hard lesson, so we'd better pray now: Lord, to override or not to override, that is the question. Give this Senate wisdom and humility to decide this afternoon not just what they want, but what we need. Amen

Senator Hough led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

HOUSE MESSAGE

The House has voted to override the Governor's veto on the following Bill: HB 1026, relative to a companion bill to the supplemental budget.

SUSPENSION OF THE RULES

Senator Hough moved to suspend the reading of the Governors Veto Message on HB 1026, relative to a companion bill to the supplemental budget.

Adopted.

Recess.

Senator Delahunty in the Chair.

The question is notwithstanding the veto by the Governor? Shall the bill pass?

SENATOR COLANTUONO: I would like to speak on one issue only, and that is the issue of whether it is constitutional to mix appropriations in with policy bills. Under part two, article 18-a, under the New Hampshire constitution which says "that all budget bills before the General Court shall contain only the operating and capital expenses for the executive, legislative and judicial branches of government. No section or footnote of any such budget bill shall contain any provision which establishes, amends, or repeals statutory law, other than provisions establishing, amending or repealing operating capital expenses for the executive legislative or judicial branches of government." That section has been debated with regard to this particular bill as to whether it applies or not. In reading the section, I think it is abundantly clear that it applies to this bill and it would prohibit this bill from becoming law. In other words, this bill is unconstitutional because it does mix policy provisions with capital appropriations provisions. I have a very serious concern with passing bills that appear to me, on their face, to be unconstitutional. I took the time this afternoon to look at the case that the opinion of the justices rendered in 1985 under this bill, and I just want to take a minute to read that decision:

The court cited a provision from a legal memorandum submitted by Common Cause of New Hampshire talking about this. The Common Cause Memorandum said "that the practice of adding footnotes really began in the 1970's. Then Governor Thomson exercised the Gubernatorial veto much more frequently than previous Chief executives, and threatened its use even more often. The result was that legislators who wanted to avoid that veto began attaching their bills as amendments or footnotes to the operating budget . . . By adding the footnotes the legislature gave themselves bargaining chips with which to negotiate with the Governor. Because the leadership in the House and Senate controlled the Committee of Conference on the budget, the negotiating was done behind closed doors without the input of the nonleadership representatives or the public. The Representatives also face an all or nothing choice when the Committee of Conference report came back to the floor at the end of the legislative session."

To correct that, the constitutional convention proposed this in 1984, and the vote on that provision was 262,408 to 62,030 on November 6, 1984, for a 80.8 percent popular approval. I hope the Senators will heed the language in that decision and heed the provision of the constitutional prohibition against passing bills like this and vote to sustain.

SENATOR HOLLINGWORTH: I would like to speak for just a moment. I know that Senator Colantuono is new in the process so he

probably is not aware that yes, the House did vote, and the constitution did say that we would no longer have footnotes, and that is precisely why 1026 came in and all the policy committees voted on each of those things and took a position on it, as well as the House, so both bodies had full knowledge of everything that is in 1026, and that there is that, I do not believe any possible likelihood that there is any question of any constitutional question at all in that. I agree with you, that we would all be opposed to footnotes if we had to go through that process again. I think that this is clear, that this is not the case with this piece of legislation.

SENATOR HOUGH: I rise in support of the passage of HB 1026, notwithstanding the Governor's veto. Mr. President, a few moments ago I met with Senator Bass, and I would tell you that it is apparent to me and it should be apparent to other members that have seen him today, that they realize that he is quite ill and I will abbreviate my remarks. He did make an extra effort to be present here today. I would tell you that HB 1026 arrived in the Senate in early March, having been passed by the House. In there, in the Senate's involvement, in crafting this piece of legislation, started and there was not a policy committee in this Senate nor was there a member of this Senate that was not part of the crafting of the legislation that ultimately was passed, met with members of the House in Conference, that was presented to the Governor. Now the attempt to override the Governor's veto is not to be taken, as sending the Governor a message. The Governor and I have been friends since the 60's, and I have worked with him, and I have worked against him over the years. This is not to send to the Governor a message, but more importantly it is to send a message to the people of the state of New Hampshire, that message is that the Senate, of the state of New Hampshire, has seized the initiative and has been a proactive government, in a time when the economy of the state is flat. Where there are a number of people who are out of work, and it is the initiative of the Senate, the bipartisan initiative of members of this Senate that have crafted and put forward an economic development package. That will put the state of New Hampshire on the cutting edge of international economics. We should be proud of what we have done. It was Senator Shaheen, Senator Hough, Senator Dupont that worked last summer and fall with world class institutions of the University of New Hampshire, and Dartmouth College, to affect the memorandum of understanding of bio-tech research. That is part of this piece of legislation. And there are a number of items that are in this bill, Senator Colantuono, that in fact do address statute. They were in the House version 1025 as it appeared here, and being sensitive to the constitutional question, we put them in this bill so that the budget adjust-

ment act would address this. Only the budget lines that were deficient, and bear in mind that the Supreme Court's opinion addressed a biennial budget. The biennial budget was passed last June, signed into law, and funded state agencies for 24 months. Repeatedly on the off year we have to adjust the budget lines and that is what 1025 did, 1026 further puts in place the maximization of our allocations and our entitlements under the new federal transportation act. Had we not put this language in 1026 we would not have been able to take advantage of all that Department of Transportation is entitled to. On and on we are going to surface an additional, resurface an additional 400 road miles of New Hampshire roads this summer. That represents jobs, that represents small contractors in the state of New Hampshire that have not had the work and will be able to hire your friends and neighbors and put them back to work. It is my understanding that there are people who are referring to parts, if not all, of this bill as pork. It is my understanding that there are a bunch of Democrats over in Dover, named Foster, Senator Shaheen, and it is my understanding that they take objection to this. I would tell you that I was on a Conference on HB 1344 and one of the principal beneficiaries of HB 1344, was the Dover area, where superfund clean-up can commence under state guarantees. It is my understanding that there are 29 out of 31 that are private businesses. I was clearly in support of that, and I have been in support of legislation that has been rightfully and correctly affected each and every senatorial district in the state, because it was good for the state of New Hampshire. If this bill is objectionable because there is a Court House that may be purchased from a defunct bank in my district, or because the airport in the western part of the state is going to be able to take advantage of another significant piece of construction through ADAPT funds; I make no excuses, and I am proud of my involvement in this document as I have been proud of the successes and initiatives that I have taken in this legislature for the last 20 years. This is the essence of the Senate's involvement this session. It is the combination of a proactive Senate that recognizes that we have to get involved and be involved with restoring the economy. The boom and bust laissez-fair economics of the eighties as failed public policy. We need government involvement to spur on the economy, this is what Governor Gregg said in January when we first returned to the State House, and it is the work that this body had accomplished over the last six months that has made this bill worthy of passage. I would urge my colleagues to vote yes on the motion.

SENATOR COHEN: I certainly TAPE INAUDIBLE support 1026 and override the Governor's veto. Because we in the Senate, as Senator Hough said, have a responsibility to look beyond the short term

thinking and to do what we can to shape a better future. I would just like to look at one small part of 1026, appropriations for the University System of New Hampshire, \$5,000,000. For the purpose of making capital improvements that have been long overdue to help meet safety and handicapped code requirements that still have to go through, has to develop an action plan, go through the Capital Budget Overview committee. I would just like to remind this body that the sons and daughters of the working middle-class of New Hampshire depend on the resources of the University System to enhance their long term economic security. We have already had enough tuition hikes borne down on these people and it is up to us to recognize and support these investments in ourselves, and investments in our infrastructure which will strengthen our state for the long-haul. I urge my colleagues to support this.

SENATOR HUMPHREY: Mr. President, I really find it difficult TAPE INAUDIBLE. The public sector will spend it less wisely than the private sector. The irony is incredible to me at least, Mr. President. I have just come back from an extended visit to Russia. We are all gladdened by the changes there, and the irony is that in Russia they are reducing the scope of government. In Washington, and in Concord, we are constantly increasing it, and if this session of the general court has one hallmark it is to increase the authority of the scope of government, that is a mistake. People are fed up with this, Mr. President, I was just reading the morning newspaper or I should say one of the morning newspapers, still the best morning newspaper, may I? There is a little blurb that sort of speaks to this situation, in it's headline in New Hampshire wins \$82,000 NEA rural arts grant. There is the good old NEA, here we have our Congressmen swearing up and down that they have cut every last possible cent out of the budget. Refusing to pass a balanced budget amendment saying that they can handle it on their own just gives us a few more years, folks, and we will get it all squared away. New Hampshire has won a \$82,000 grant and that is not a lot of money in the National scope of things. But you can be assured that New Hampshire is not the only one, that all 50 states have got them and larger states, the appropriations is greater. New Hampshire has won an \$82,000 grant, from the National Endowment for the Arts. Here we are almost in the middle of a depression, people are despaired on how they are going to pay the mortgage, and feed the family, and here we've got money to throw around, here we have enough money that the NEA can hand out grants. Let me just finish the rest, it is only just two more paragraphs. The grant announced that yesterday, to support a three year rural arts expansion project, the money will allow the council to increase visual arts, crafts, media arts in

rural areas and strengthened networks for artists in rural areas of this state. We all know that there is a huge crisis out there among the rural artists, they don't know how to find one another. We need a federal subsidy to set up a network for rural artists. This is bunk, and so is much of the bill before us, and I reject this pork barrel spending and there is pork barrel in there no matter how much some may profess to be proud of it. I am not proud of it. There is pork in there, but what is even worse, there is micromanagement and even micromanagement or an attempt at it, of the economy right here in our state. It is going to fail just as such attempts have failed before. And it is going to prolong the recession and delay the day when we have real growth dictated by real needs in the private sector. So I, for whatever it is worth, encourage the Senators to up hold the Governor, which position I think, is correct on this issue.

SENATOR SHAHEEN: Senator Humphrey, I am sympathetic. But the point that you just made, I agree with you that the private sector, in this state, should be major sector on which the economy depends. And I have served for the last two years on the Economic Development committee and we have heard from the private sector that we need to make investments in our state if they are going to be able to flourish. In the two areas which they said they depend the strongest on, are a transportation network, and the ability to have skilled workers to work in their operations. The two areas of funding in this bill where the most of the funding that occurs, are exactly those two areas. They are the University System, and they're for the Betterment program. I do not believe that the Governor's veto of this bill, and the debate over this bill, has been about whether this state can afford these projects or not. I believe that the debate right now is about whether the Senate is going to succumb to the political demagoguery of a Governor who will rather make campaign points, than do what is in the long term best interest of the state. And I for one will not do that, and we wonder why people are cynical about the political process. And I am going to vote on what I believe is the long term best interest for the state to override the Governor's Veto, and I urge you all to do the same.

SENATOR DUPONT: I probably would make a reasonable assumption if I said this is my last time in the New Hampshire Senate. I guess it is a final pleasure for me to be able to stand on the floor today and address 1026. The fact of the matter is the real question here today is a question of whether or not politics is going to get in the way of good public policy. That is really the question, and what we need to decide today is whether or not 1026 serves the people of our state. Put all the politics behind us, and the real issue here is whether or not this piece of legislation does provide benefits to our

state. Senator Humphrey, coming from the private sector and having served here with one foot in the private sector and one foot out in the last nine years, I have always had the feeling about government that I am close enough to touch it, but I have been far enough away to understand what it really is. I, too, share your same concerns that in fact the government does not drive our economy. However; unfortunately, we educate the driver of the car, we build the road for the economy to drive on, and we build a regulatory system and a fiscal policy for the state that supports investment in our economy. One of the most interesting statistics about New Hampshire that we grew on in the eighties and the investment that we made in the seventies. We were right in the middle of the pack and per capita spending on our infrastructure water, sewer and all those nasty things that we have put money up for over the last few years to try and build an infrastructure that will support jobs and investment in our state. During the eighties we were third from the bottom, 47 in investing in our infrastructure. So when you look to the 90's and you ask yourself what are we going to build on and what are we going to build our economic opportunity for our citizens on? It is not going to be on a failed infrastructure and all you have to do is drive around the state of New Hampshire and drive around your local communities to see the impact of that lack of spending on infrastructure. As you all know, you don't put buildings on the side of a road that does not exist. When you hit a pothole, your comment is not about the beauty of our state, it is the fact that you just ran into pothole and it was the state of New Hampshire's responsibility to fill it. We failed miserably in the eighties and we have had a great building program called the Ten-year Highway program that builds new roads. But they will tell you over in Transportation that they don't have the money to pave the old roads. That is the legacy that we want to leave to the people who follow us in this Chamber, I don't think that it is an appropriate one. Furthermore we have made commitments this session, whether you want to agree with me or not, they were significant commitments, they were to Dartmouth asking them to enter in a partnership with us to try to provide some assistance as we move forward out of these difficult economic times. We made a commitment to the vocational community who wants to go to the private sector, and invite them into our vocational schools and participate in training the workers of the future. Unfortunately, the money for both those programs are in this bill. We cannot escape from the fact that education is part of our economic future, part of the solution. Our infrastructure is going to be the determining factor on whether or not we can support reasonable growth. And this piece of legislation addresses both of those issues. This is not a commitment to the political process today, it is a commitment to the people of our state. To

those who we've added in this process this year that worked with us in good faith. To the small businesses of our state that came to us with a problem that dealt with unemployment compensation, and the agency that came in and offered us a solution. Also, to those individuals that are sitting over at our Labor Department who are waiting for a hearing because they are injured on the job and we don't have adequate people over there to hear those appeals in a timely process. Why didn't we address those during the session and other pieces of legislation? Partially because agencies came to us at the last minute and said did you know that there is a problem that has not been addressed, that has existed in this legislative process ever since I have been here. Again, getting back to the bottom line of who is going to get hurt if this piece of legislation does not pass. There is one other point that I am going to make, four weeks have gone by since this legislation has passed the House approximately. And I commend the House and the leadership of the House for being able to take to their membership a message that was not necessarily putting the Governor against the legislature, but what is good public policy? That is really what we are standing here today and doing. There is a balance that exists between the Governor and our body, it requires the Governor to roll his sleeves up and work with us. There was somebody from the Governor's office sitting in the public process that took place that created this piece of legislation. Ralph Brickett who we jokingly call the Chief Budgeteer, was the person who sat there who represented the Governor's office throughout this process. We worked with him and worked very closely with him so anyone that raises the suspicion that this was crafted in the middle of the night and nobody had an opportunity to participate, is wrong. This was held in a public process. Those four weeks have gone by, and during those four weeks there are people in our state who don't have jobs, and are going to have opportunity if this passes. We may debate whether or not it is appropriate for us to fix roofs that are leaking or whether we should fill the potholes, but the fact of the matter is public policy stands in the state, we built those buildings, and it is our responsibility to maintain them, and we built those roads, and our responsibility to maintain them. And the spinoff from that, is we all know that we have economic problems and the more people that we put back to work the better off the state will be. This piece of legislation will put people back to work in our state. You can talk all you want about wanting to do that, but the bottom line is that this Senate during the last two years, took some significant steps forward, the only action that came out of this legislative process that really truly will have an impact on what is happening in our state in the future. There is no instant gratification, and it is not going to make you feel better when your name is on a ballot this fall. The fact

of the matter, from a long term perspective, is what we did this session is going to ensure a better future for the people of our state. I am going to end with that, Mr. President, and I am obviously urging my colleagues to override the Governors' Veto, something I have in the past had difficulty dealing with, but I believe that today, we have an opportunity to stand up for the people of our state and make a statement that we understand the problems that they face, that we understand good public policy does not serve those that participate in the public policy arenas, it serves the people that we are here representing.

The question is notwithstanding the veto by the Governor? Shall the bill pass?

A roll call was requested by Senator Hough.

Seconded by Senator Roberge.

Senator Nelson is excused for the day.

The following Senators voted Yes: Oleson, W. King, Fraser, Hough, Dupont, Currier, Disnard, Blaisdell, Bass, Pressly, McLane, J. King, Russman, Shaheen, Delahunty, Hollingworth, Cohen.

The following Senators voted No: Heath, Roberge, Colantuono, Poldes, Humphrey, St. Jean.

Yeas 17

Nays 6

Motion is adopted.

Recess.

Senator Delahunty in the Chair.

HOUSE MESSAGE

The House of Representatives has passed a Bill with the following title, in the passage of which it asks the concurrence of the Senate:

HB 1503 relative to voting in certain wards in the city of Concord.

SUSPENSION OF THE RULES

Senator McLane moved that the rules of the senate be so far suspended to allow an introduction of a bill after the deadline.

SENATOR HUMPHREY: What is this bill in connection with we are being asked to suspend the rules?

SENATOR MCLANE: It is right there, it is HB 1503, relative to voting in certain wards in the City of Concord.

HB 1503 relative to voting in certain wards in the city of Concord.
Adopted.

INTRODUCTION OF HOUSE BILL

HB 1503 relative to voting in certain wards in the city of Concord.
Adopted.

SUSPENSION OF THE RULES

Senator McLane moved to further suspend the rules of the Senate to dispense with referring a bill to committee, holding a public hearing, the notice of said hearing, and a committee report and that the bill be put on second reading at the present time.

Adopted by the necessary 2/3 votes.

First and Second Reading and Referral

HB 1503, relative to voting in certain wards in the city of Concord.

SENATOR MCLANE: I thank my colleagues for their deference for doing this small bill for the City of Concord. And out of respect for Senator Bass, I will be very brief. The ward house, for Ward F, for Ward 7, in Concord, has been used for voting for 108 years. It is dear to the people of that ward. In the process of redistricting the ward house was moved out of the ward, and it turns out that it is against the law to vote out of the ward. Then Ward F was sent to a private sort of club to vote, they are very unhappy with it, and they are hoping that in the next session of the legislature they can revise the ward lines, and get back their precious ward house. In the meantime, they are anxious to vote in their old ward house. So that is all the bill does is allow Ward F for Ward 7 to vote in the old ward house even though it is out of their district. I would ask for this small political favor, we all agree that the more people that vote, the happier they are when they vote, the better off we all will be, and seeing that I have some Democratic opposition now that I have just discovered, I have been assured that you all will want more people voting. And the hope would be that they would be happily voting out of their ward, half a block away as they have always done.

SUSPENSION OF THE RULES

Senator Fraser moved that the rules be suspended to put HB 1503, relative to voting in certain wards in the city of Concord, on Third Reading and Final Passage at the present time.

Adopted by the necessary 2/3 votes.

Ordered to third reading.

Third Reading and Final Passage

HB 1503, relative to voting in certain wards in the city of Concord.

Recess.

Out of recess.

SENATOR DELAHUNTY (In the Chair): Senator Disnard, the Democratic leader of the Senate and I have some presentations to make. Being the gentleman that I am, I think that I will let Senator Disnard speak first. Go ahead, Senator.

SENATOR DISNARD: We have six of our colleagues, for various reasons, are not returning next year. We would like to honor those and we did have a little gift, and somehow in our communications with our supplier who had the need to leave town to make more money, we don't know if it was because Mr. Quayle could not speak, and we did not have the words right on the T-shirts or what . . . We have a certificate, a different certificate, not signed by the Senate, for each of our retiree's that are leaving, that says that this certificate entitles the bearer to one T-shirt, and the T-shirt indicates, State Senator, State Seal and more importantly, it says retired. Now these are going to be collectors items, and it is the first time this has happened, and it may be the last time this will happen. All of us have sweatshirts or T-shirts from the past. But only six, six will be receiving this, this year, like a graduating present. Some are going on to higher office, some are going to relax, some will be back, no matter where you go or what you do, the Republican leader and the Democratic leader will miss you.

SENATOR DELAHUNTY: Truly, each Senator stands out in his own individual way, has stood out in the session, and will be sorely missed. Each one of us has our own personalities. I think the Senators that are involved, and the individuals involved added an awful lot to the state Senate, to the State of New Hampshire, to the process, to the people and on behalf of the entire Senate, I want to wish you all well. And thank you very much for your dedication and tell you that you are going to be missed. Senator Humphrey, you are looking at me and laughing, Senator, I think you were great.

SENATOR SHAHEEN: I have to say that Senator Heath and I were talking early on in session and he was saying to me, it is not as much fun as it used to be because we don't get together that often, and I said, "well, Roger, you and I ought to invite the whole Senate out for a drink one of these times", so, Roger, here it is.

SENATOR HEATH: Well, I am glad that you and Senator Disnard just announced the dutch treat before you addressed me.

Recess

Senator Dupont in the Chair.

SENATOR DUPONT (In the Chair): I guess we are going to have one or two rule #44 coming your way. And I just wanted to again extend my sincere thanks to all of you for how hard you worked during the last couple of years. And I think that you all ought to be commended and we have had our differences. The fact of the matter, I think you have served your constituents well. We all look at our lives in terms of time frames and this ends one for me. A little story I have been telling of late, that I walked into this chamber for the first time, and into this State House in 1981, and I had never been here before, at the invitation of Senator Leo Lessard, from Dover. He said you ought to come up and see what I do in Concord, and I came up one day, and he, being an old friend whose car I used to work on, and that was the first time I walked into this chamber and the first time I had ever been in the State House. Then three years later I was sitting in one of these seats and it was the greatest privilege that I have ever had in my life to do that. Obviously, being Senate President has just been another part of that chapter, and I have come a long way in a short period of time, and I do appreciate the support that I have received from all of you and the way that you have conducted yourselves in the last couple of years, and just wanted to extend my final, final thanks to each and every one of you and wish you great success.

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House Bill:

HB 1503, relative to voting in certain wards in the city of Concord.

ANNOUNCEMENTS

SENATOR W. KING (Rule #44): In honor of the Vice Presidents visit to the school last night, and I have a little poem for you all. It's called, "Ode to the Potato".

The potato is a noble root,
Baked, fried, mashed or boiled.
Hardy fare for a hungry brute,
Who in the fields has toiled.
It fed the Irish through their pains,
And helped them survive you know.

It lines the pockets of the folks in Maine,
And those in Idaho.
The English have a name for it
That rings with irony,
Whether brown or red it seems to fit,
And the Limey's call it Murphy.
The pomme de terre, the simple spud,
Goes with chicken, meat and fish
And on the campaign trail with Judd,
It is the veggie on the dish.
The potato it has many eyes,
But alas, it cannot see,
But sad to say dear Danny Boy,
It does not end in "e".
So Danny Boy, before you start
To peel another Murphy,
Take your spelling bee success to heart,
And try to count to three.
To stretch this poem a little more,
Here is my advice for free:
Put your horse before the cart,
There for the grace of God go thee.

SENATOR HUMPHREY (Rule #44): Mr. President, I know that was meant in good humor, mistaken for humor, but as the only person in this body who personally knows the Vice President, I want to rise in his defense. I think he is the most underestimated man in Washington. He is a fine man, he is an intelligent man, above all else this is so rare in Washington, he is a man of principle. May God bless you.

SENATOR MCLANE (Rule #44): I have a final present for Senator Humphrey, which is, I am not going to kiss him goodbye.

RESOLUTION

Senator Delahunty moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that the Senate be in recess for the sole purpose of house messages, enrolled bill reports and amendments and when we adjourn we adjourn to the Call of the Chair.

Adopted.

LATE SESSION

Senator Delahunty moved that we adjourn to the Call of the Chair.

Adopted.

Adjournment.

SENATE JOURNAL

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SB 339, establishing a committee to study the impact of New Hampshire's product liability laws on manufacturers in New Hampshire. Question, adopt Colantuono floor amendment. Yeas, 9; Nays, 13	607
SB 365, prohibiting abortions based on sex selection. Question, ought to pass. Yeas, 8; Nays, 14	203-204
SB 441-FN-A, establishing a statewide enhanced 911 system and continually appropriating a special fund. Question, adopt floor amendment. Yeas, 3; Nays, 20	195
SB 442-FN, requiring the state to agree in negotiations to provide less than 100 percent coverage of medical expenses and to pay no more than 80 percent of health insurance premiums for current and retired state employees. Question, adopt floor amendment. Yeas, 5; Nays, 15	269
SB 444, relative to the definition of ski craft. Question, ought to pass. Yeas, 11; Nays, 9	157
SB 456-FN, requiring parental notification before abortions may be performed on unemancipated minors. Question, lay on table. Yeas, 15; Nays, 7	372
SB 457-FN, relative to sale of beverages by beverage manufacturers. Question, ought to pass. Yeas, 21; Nays, 3	290
SB 459-FN, limiting increases in electric rates. Question, substitute ought to pass for inexpedient to legislate. Yeas, 11; Nays, 10	521
SB 466-FN, providing for informed consent relative to abortion. Question, order to third reading. Yeas, 8; Nays, 15	378
SCR 12, concerning the Constitution of the United States. Question, adopt committee report of inexpedient to legislate. Yeas, 18; Nays, 6	442
SCR 13, accepting the factfinder's report and recommendations relative to contract negotiations between the State Employees Association and the state of New Hampshire. Question, adoption of the resolution. Yeas, 14; Nays, 6	1889
SR 5, requesting an opinion of the justices concerning the constitutionality of SB 419-FN. Question, ought to pass. Yeas, 19; Nays, 3	1400
HB 285-A, relative to constructing regional vocational centers and making an appropriation therefor. Question, order to third reading. Yeas, 20; Nays, 1	1016
HB 470, relative to health maintenance organizations. Question, order to third reading. Yeas, 14; Nays, 8	1195
HB 527-FN-A, licensing speech-language pathologists and making an appropriation therefor. Question, lay on table. Yeas, 3; Nays, 20	1608
HB 591, reapportioning the state house of representatives districts. Question, make a Special Order. Yeas, 20; Nays, 4	1658
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Question, adopt Russman floor amendment. Yeas, 4; Nays, 20	1672
HB 1000, establishing a study committee on certain issues regarding the next constitutional convention and authorizing a special election for electing Concord charter commission members. Question, suspend rules for introduction. Yeas, 18; Nays, 5	41
Question, divide the question. Yeas, 6; Nays, 17	46
HB 1025-A, relative to budget adjustments for fiscal years 1992 and 1993. Question, order to third reading. Yeas, 21; Nays, 2	992
HB 1026, relative to a companion bill to the supplemental budget. Question, order to third reading. Yeas, 19; Nays, 4	1011
Question, adopt conference committee report. Yeas, 16; Nays, 6	1770
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HB 1053-A, relative to state revenues and expenditures. Question, order to third reading. Yeas, 21; Nays, 1	222-223
HB 1054-FN, relative to the industrial development authority. Question, recommit to committee. Yeas, 2; Nays, 18	899
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Question, adopt floor amendment. Yeas, 9; Nays, 13	1620
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CACR 30, relating to election of federal and state representatives. providing that the terms of office for the members of the United States Congress from New Hampshire and for the members of the New Hampshire house and senate shall be limited to 12 years. Question, order to third reading. Yeas, 11; Nays, 11	467-468
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The abbreviations listed below are used in the Numerical Index.

adop	adopted
am	amended, amendment
conc	concurred
conf	conference committee
enr	enrolled
Finance	referred to Finance committee
H	House
intro	introduced, introduction
IP	indefinitely postponed
K	killed (inexpedient to legislate)
LT	laid on table
nonconc	nonconcurred
psd	passed
RC	roll call
rcmt	recommitted
recon	reconsideration, reconsidered
rej	rejected
rep	report
req	request, requested
SO	special order
study	referred to interim study committee
wthd	withdrawn, withdrew, withdrawal

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conc H am 58, enr 179 (Chapter 2)
- SB 18-FN-A**, relative to the conservation corps program and making an appropriation therefor.
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conc H am 57, enr 179 (Chapter 3)
- SB 60-A**, creating a task force to study the Laconia - I-93 connector highway.
New title: establishing a task force to study the Laconia to Franklin highway problems.
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- SB 62-FN**, relative to licensure of athletic trainers.
New title: requiring the introduction of legislation in the 1993 session relative to athletic trainers and the board of registration in medicine.
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- SB 76**, relative to the age requirement for retirement communities.
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- SB 81**, relative to damages for wrongful death.
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- SB 107-FN**, relative to tenants' security deposits.
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- SB 120-FN-A**, establishing a sunset committee and restoring the sunset review process and making an appropriation therefor.
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conc H am 57, enr 179 (Chapter 5)
- SB 154**, relative to the jurisdiction of state police employees.
H nonconc 59
- SB 156-FN-A**, establishing a committee to study the SAU structure within the state of New Hampshire and making an appropriation therefor.
H nonconc 59
- SB 159-FN**, relative to posting of public documents in licensed health facilities and health care facilities.
H nonconc 59
- SB 162-A**, relative to rebuilding, modernizing, and maintaining rail properties and making an appropriation for the Conway branch line.
H nonconc 59
- SB 172-FN-A**, establishing a committee to study the board and care rates for residents of enhanced family care facilities.
New title: relative to enhanced family care facilities and making an appropriation therefor.
conc H am 277, enr 557 (Chapter 10)
- SB 184-FN**, relative to voter registration.
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- SB 186-FN**, establishing a committee to study household hazardous waste.
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- SB 192-FN-A**, relative to the office of chief medical examiner.
H nonconc 59
- SB 193-FN**, relative to limits on motorboat speeds.
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- SB 196-FN**, relative to administrative revocation of motor vehicle licenses of persons under age 21.
H nonconc 59
- SB 205-FN**, establishing a committee to study the enforcement of RSA 205-A.
H nonconc 59
- SB 213-FN-A**, relative to the distribution of meals and rooms tax revenue.
H nonconc 58
- SB 220-FN**, relative to foster care.
New title: relative to the district court's jurisdiction over certain children and making an appropriation therefor.
conc H am 277, enr 557 (Chapter 11)

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- SB 300**, reapportioning the New Hampshire congressional districts. (Fraser et al - To Internal Affairs)
3, psd 338-339, 413, recon notice 414, recon & am 542-543, psd 544, conc H am 909, enr 917 (Chapter 15)
- SB 301**, to reapportion the state senate districts. (Fraser et al - To Internal Affairs)
3, K 1954
- SB 302-FN-A**, establishing a nonprofit corporation to guide the economic development of New Hampshire and making an appropriation therefor. (Dupont - To Economic Development)
3, K 564-566
- SB 303**, establishing a committee to study the various options available to fund and deliver medical benefits for state employees. (Dupont and Currier - To Insurance)
New title: establishing a committee to study the various options available to fund and deliver medical benefits for state employees and relative to the funding methodology of the retirement system.
3, am 160-162, psd 179, H conc 1011, enr 1088 (Chapter 55)
- SB 304-FN-A**, making an appropriation for the purposes of bio-tech research. (Dupont - To Economic Development)
New title: relative to business assistance and institutional arrangements.
3, am 566-577, psd 867, nonconc H am, conf 1663-1664, 1675, rep adop 1804, 1830-1831, enr 1983 (Chapter 242)
- SB 305-FN**, relative to a coordinator of federal funds. (Dupont and W. King- To Economic Development)
3, K 577
- SB 306-FN-A**, allowing bonus payments in recognition of service during the Persian Gulf War and making an appropriation therefor. (Blaisdell and Rep. Benton of Rock. 5 - To Finance)
New title: allowing bonus payments in recognition of service during the Persian Gulf War.
3, psd 709, 867, H LT 1015, conc H am 1454, enr 1891 (Chapter 204)
- SB 307-FN**, authorizing disclosure of certain information contained in the records of the department of revenue administration to the office of reimbursements, division of mental health and developmental services. (Fraser - To Judiciary)
3, psd 162-163, 179, H conc 1011, enr 1058 (Chapter 40)

- SB 308**, revising the business corporation act. (W. King et al - To Judiciary)
3, am 723-831, psd 867, nonconc H am, conf 1676, 1683, rep adop 1804, 1831, enr 1987 (Chapter 255)
- SB 309**, prohibiting the distribution of condoms to persons 21 years of age or younger on state property or in schools. (Humphrey - To Public Institutions, Health and Human Services)
4, LT 471-476, (RC) 1049-1052, K 1954
- SB 310**, establishing a chancery court within the superior court which will have jurisdiction over corporate law issues. (W. King et al - To Judiciary)
4, SO 112, LT 160, K 1954
- SB 311**, exempting certified fire investigators from licensure under the detective agencies and securities services act and changing the date for renewal or reinstatement of private detective licenses. (Podles - To Executive Departments)
First new title: exempting certified fire investigators from licensure under the detective agencies and securities services act, changing the qualification for fire investigators and changing the date for renewal or reinstatement of private detective licenses.
Second new title: exempting certified fire investigators and certain towing companies from licensure under the detective agencies and securities services act, changing the qualification for fire investigators and changing the date for renewal or reinstatement of private detective licenses.
4, am 78-82, psd 110, conc H am 1160-1161, enr 1697 (Chapter 139)
- SB 312-FN**, relative to mandatory testing for health care providers and certain patients for communicable diseases. (Humphrey - To Public Institutions, Health and Human Services)
4, SO 127, LT 223-224, K (2RCs) 224-231
- SB 313**, relative to gender balance on boards and commissions. (Pressly and Rep. Clemons of Hil. 25 - To Executive Departments)
4, am 249-250, psd 275, H conc 1012, enr 1088 (Chapter 56)
- SB 314-FN-A-LOCAL**, making a supplemental appropriation for the board of tax and land appeals and increasing filing fees for appeals to the board. (Hough and Rep. Schotanus of Sul. 1 - To Executive Departments)
4, Finance 250-251, am 709-710, psd 867, conc H am 1640-1641, enr am 1973-1974, enr 1987 (Chapter 285)
- SB 315-FN**, prohibiting judges from waiving repayment of attorneys' fees by defendants for whom public defenders, contract attorneys, or assigned counsel are appointed. (Currier - To Judiciary)
4, K 112
- SB 316**, establishing a committee to study cable television rates and the possibility of introducing competition into the marketplace in order to lower rates. (Colantuono et al - To Public Affairs)
4, am 270-271, psd 275, conc H am 1161, enr 1697 (Chapter 140)
- SB 317**, relative to siting manufactured housing in municipalities. (Colantuono et al - To Public Affairs)
4, K (RC) 831-840
- SB 318**, relative to a fire protection area within the town of Amherst. (Roberge et al - To Public Affairs)
New title: relative to fire protection areas within the town of Litchfield.
5, am 93-95, psd 110, H nonconc 1092
- SB 319**, separating the AFDC standard of need from the AFDC payment standard. (McLane and Rep. Julie Brown of Str. 11 - To Public Institutions, Health and Human Services)
First new title: separating the AFDC standard of need from the AFDC payment standard, increasing the AFDC standard of need and increasing medicaid eligibility for pregnant women and children.
Second new title: increasing medicaid eligibility for pregnant women and infants.
5, am & Finance 476-478, am 710-711, psd 867, conc H am 1771, enr am 1972, enr 1987 (Chapter 286)

- SB 320**, relative to political advertising by candidates. (Bass - To Public Affairs)
5, IP 446-450
- SB 321**, repealing an exemption for town clerks relative to voter registration. (Cohen et al - To Public Affairs)
First new title: relative to voter registration and changes in party affiliation with town clerks.
Second new title: relative to voter registration and changes in party affiliation with town clerks and relative to supervisors of the checklist.
5, am 95, psd 110, nonconc H am, conf 1317, 1449-1450, rep adop 1804, 1832-1833, enr am 1990, enr 1984 (Chapter 287)
- SB 322**, limiting the advertising expenses of public utilities which may be included in the calculation of rates and establishing a long range energy policy committee. (Shaheen and W. King - To Economic Development)
New title: establishing a committee to study the effectiveness of the laws decommissioning nuclear power plants.
5, am 416-418, psd 544, H nonconc 1092
- SB 323**, establishing a committee to study the issue of physician self-referrals. (Colantuono et al - To Public Institutions, Health and Human Services)
5, psd 102-103, 110, H conc 1060, enr 1165 (Chapter 82)
- SB 324**, establishing a commission on the family. (Colantuono et al - To Public Institutions, Health and Human Services)
New title: establishing a commission on the family and permitting Jewish Rabbis who are not citizens of the United States to solemnize marriages.
5, am 478-480, psd 544, nonconc H am, conf 1160, 1315, rep adop 1804, 1833-1836, enr 1986 (Chapter 243)
- SB 325**, encouraging water companies to work with municipal customers to develop water conservation measures prior to the imposition of rate increases. (Cohen et al - To Environment)
5, K 418
- SB 326-FN**, relative to the borrowing authority for the Lamprey solid waste district. (Shaheen et al - To Environment)
New title: relative to the Lamprey solid waste district.
5-6, am & LT 77-78, am 410-412, psd 413, H conc 1060, enr 1165 (Chapter 83)
- SB 327**, establishing a committee to study the effects of substance abuse on health care costs of the state. (Hollingworth et al - To Public Institutions, Health and Human Services)
New title: establishing a committee to study the effects of substance abuse on health care and economic costs of the state.
6, am 480, psd 544, conc H am 1318, enr 1891 (Chapter 205)
- SB 328-FN**, restoring funds to the university system. (W. King and Cohen - To Finance)
6, K 711-712
- SB 329**, authorizing the New Hampshire housing finance authority to assist tenants when a manufactured housing park is undergoing condominium conversion. (Pressly et al - To Public Affairs)
6, psd 450, 544, H nonconc 1092
- SB 330**, changing the bureau of marine services to the division of marine services, department of resources and economic development. (Cohen et al - To Executive Departments)
6, K 182
- SB 331**, relative to gender equity in athletics. (Hollingworth et al - To Public Affairs)
6, am 96-97, psd 110, H conc 1060, enr 1165 (Chapter 84)
- SB 332**, authorizing a municipality to issue bonds to pay the costs of the cleanup of superfund hazardous waste sites. (Shaheen et al - To Environment)
6, rcmt 242-246, Econ Dev 419, LT 577-578, K 1954

- SB 333**, relative to a Piscataqua River basin council. (Cohen et al - To Interstate Cooperation)
6, psd 93, 110, H nonconc 1092
- SB 334-FN-A**, authorizing the division of public health services to carry out a rabies surveillance to identify and gauge the threat to the public's health and making an appropriation therefor. (Nelson et al - To Public Institutions, Health and Human Services)
First new title: authorizing the division of public health services to carry out a rabies surveillance to identify and gauge the threat to the public's health.
Second new title: authorizing the division of public health services to carry out a rabies surveillance to identify and gauge the threat to the public's health and making an appropriation therefor.
7, am & Finance 168-169, am 712, psd 867, conc H am 1639, enr 1908 (Chapter 206)
- SB 335-FN**, authorizing the board of marital mediator certification to establish and collect certification fees, establish a budget and certify certain applicants and continually appropriating a fund. (Nelson and Rep. Jacobson of Mer. 2 - To Executive Departments)
First new title: authorizing the board of marital mediator certification to establish and collect certification fees, establish a budget and certify certain applicants.
Second new title: authorizing the board of marital mediator certification to establish and collect certification fees, certify certain applicants and making an appropriation therefor.
7, Finance 82-83, am 712-713, psd 867, conc H am 1641, enr 1955 (Chapter 207)
- SB 336**, providing an exemption for the issuance of securities by certain established investment companies. (Fraser - To Banks)
7, am & Econ Dev 231-233, K 578
- SB 337-FN**, increasing witness fees for law enforcement officers. (J. King and Rep. Barroody of Hil. 39 - To Judiciary)
7, K 112-114
- SB 338**, establishing the crime of official abuse. (Roberge - To Judiciary)
7, LT 114, K 1954
- SB 339**, establishing a committee to study the impact of New Hampshire's product liability laws on manufacturers in New Hampshire. (Dupont - To Judiciary)
First new title: relative to regulatory reform.
Second new title: relative to regulatory reform and transferring certain responsibilities relative to securities regulation from the department of justice to the secretary of state.
7, am & Econ Dev 163-164, am (RC) 578-620, psd 867, nonconc H am, conf 1665, 1676, rep adop 1804, 1836, enr 1987 (Chapter 288)
- SB 340-FN**, clarifying the definition of a school district. (Oleson - To Education)
7, am 233-234, psd 276, conc H am 1163, enr 1682 (Chapter 124)
- SB 341**, relative to local industrial development authorities. (Oleson et al - To Economic Development)
7, K 620-621
- SB 342**, relative to resisting arrest or detention. (Roberge - To Judiciary)
7, LT 114-115, am 535-536, psd 545, H conc 1092, enr 1236 (Chapter 85)
- SB 343**, relative to reconsideration of town meeting and school district meeting votes. (Colantuono and Roberge - To Public Affairs)
7, am 383, psd 413, nonconc H am, conf 1159, 1321, rep adop 1804, 1836-1837, enr 1983 (Chapter 244)
- SB 344-FN**, relative to filing fees for multiple tax abatement applications filed with the board of tax and land appeals. (W. King - To Ways and Means)
8, K 271
- SB 345-FN**, requiring reimbursement of certain filing fees paid to the board of tax and land appeals. (W. King - To Ways and Means)
8, K 271

- SB 346**, relative to certain restraining orders and requiring arrest for certain violations of such restraining orders. (Shaheen et al - To Judiciary)
New title: relative to certain orders of protection and to certain restraining orders and requiring arrest for certain violations of such restraining orders and modifying the definition of household member.
 8, am 115-116, psd 158, conc H am 1676, enr 1892 (Chapter 208)
- SB 347-LOCAL**, expanding the role of the Dover Industrial Development Authority. (Shaheen et al - To Economic Development)
 8, K 621
- SB 348**, establishing a committee to study the present and future needs of the correctional system. (Dupont - To Executive Departments)
 8, am 312-313, psd 413, conc H am 1662, enr 1891 (Chapter 209)
- SB 349-FN-A**, making a supplemental appropriation to the joint promotional advertising program in the department of resources and economic development. (Dupont - To Finance)
 8, K 713-714
- SB 350**, expanding the membership of the task force on mental health and criminal justice and continuing the study of the interactions between the mental health and criminal justice systems. (Russman and Rep. Record of Hil. 23 - To Judiciary)
 8, am 116-117, psd 158, H conc 1450, enr 1699 (Chapter 162)
- SB 351**, prohibiting the sale of certain products containing phosphorus. (Russman and Rep. Conroy of Rock. 7 - To Environment)
 8, am 699-708, psd 867, H study 1638
- SB 352**, relative to physical qualifications for police officers. (Russman - To Public Affairs)
 8, K 98
- SB 353**, relative to copying recordings. (Russman - To Judiciary)
 8, am 117-119, psd 158, H nonconc 1451
- SB 354**, to create a government council on economic transition. (W. King and Cohen - To Economic Development)
 9, K 621
- SB 355**, requiring that deposits for the purchase of manufactured housing be held in escrow accounts. (Shaheen et al - To Public Affairs)
First new title: requiring that deposits for the purchase or other disposition of manufactured housing be held in escrow accounts and relative to disposition of tenant's security deposits transferred due to foreclosures.
Second new title: requiring that deposits for the purchase or other disposition of manufactured housing be held in escrow accounts.
 9, am 450-452, psd 545, conc H am 1318, enr 1717 (Chapter 210)
- SB 356**, relative to quality assurance records in nursing homes and health maintenance organizations. (McLane and Fraser - To Public Institutions, Health and Human Services)
 9, am 169, psd 179, H conc 1012, enr 1059 (Chapter 41)
- SB 357-FN**, prohibiting licensure by any state agency or board where an outstanding court default or bench warrant has been issued and making license application fees non-refundable. (Colantuono and Heath - To Executive Departments)
 9, am 251-253, psd 276, H nonconc 1061
- SB 358**, relative to the industrial development authority study committee. (W. King - To Economic Development)
 9, K 622
- SB 359**, relative to expending moneys by the OHRV bureau for trail maintenance expenses. (Currier et al - To Wildlife and Recreation)
 9, am 103-104, psd 110, H conc 1060, enr 1236 (Chapter 86)
- SB 360**, establishing a committee to study head injury cases in New Hampshire. (Currier et al - To Public Institutions, Health and Human Services)
 9, am 169-170, psd 179, conc H am 1086-1087, enr 1236 (Chapter 87)

- SB 361**, relative to the impact fee laws. (Currier - To Executive Departments)
9, psd 83, 110, H conc 1012, enr 1059 (Chapter 42)
- SB 362**, redefining proprietary medicines to include nonprescription medicines and exempting non-pharmacy retail stores and outlets from classification as pharmacies for the purpose of RSA 318. (Hollingworth - To Executive Departments)
9, am 253-254, psd 276, nonconc H am, conf 1644, 1675, rep adop 1804, 1837-1838, enr 1983 (Chapter 245)
- SB 363**, relative to health insurance coverage of autologous bone marrow transplants. (McLane et al - To Insurance)
First new title: establishing a committee to study all aspects of bone marrow transplants, including the most effective method to provide health insurance coverage for bone marrow transplants.
Second new title: relative to health insurance coverage of autologous bone marrow transplants.
Third new title: relative to health insurance coverage of autologous bone marrow transplants in the treatment of breast cancer.
9, rcmt 259, am 422-432, psd 545, conc H am 1639, enr 1955 (Chapter 211)
- SB 364-FN-A**, establishing an inventor assistance program and continually appropriating a revolving fund. (W. King - To Economic Development)
10, K 622
- SB 365**, prohibiting abortions based on sex selection. (Humphrey - To Judiciary)
10, K (RC) 198-204
- SB 366-FN**, enabling the retirement system board of trustees to invest retirement system assets in participation with commercial entities licensed by the small business administration. (W. King - To Insurance)
10, Econ Dev 259-263, K 622-625
- SB 367**, authorizing the department of resources and economic development to sell the Nansen ski jump facility if no interest exists in the private sector to maintain and operate the facility. (Oleson and Nelson - To Wildlife and Recreation)
10, Capital Budget 104-105, psd 558-559, 868, H conc 1060, enr 1088 (Chapter 57)
- SB 368**, changing statutory references to automobile graveyards, motor vehicle junkyards and junk vehicles to include automotive recycling yards or vehicles. (Podles et al - To Public Affairs)
10, psd 98, 110, H conc 1060, enr 1165 (Chapter 88)
- SB 369**, enabling municipalities to grant property tax incentives to new and expanding businesses and industries in the community. (Oleson et al - To Economic Development)
10, K 625
- SB 370**, relative to health insurance coverage for scalp hair prostheses. (Hollingworth and Shaheen - To Insurance)
10, am 83-89, psd 110, conc H am 1318-1319, enr am 1953, enr 1986 (Chapter 246)
- SB 371**, establishing a committee to study the feasibility of year round schools. (Disnard and Rep. Skinner of Rock. 21 - To Education)
10, am 234, psd 276, conc H am 1163, enr 1697 (Chapter 141)
- SB 372**, authorizing industrial development financing for the Manchester Airport. (Podles et al - To Economic Development)
10-11, am, rules suspended & psd 307-312, H conc 551, enr 554 (Chapter 8)
- SB 373**, allowing the filing of the ULOR-C form for Rule 504 securities offerings in New Hampshire. (W. King et al - To Banks)
11, Econ Dev 414, K 625
- SB 374**, requiring retail establishments to disclose the existence of certain wax or resin coatings by displaying the shipping label or a large sign. (J. King and Rep. Shackett of Graf. 10 - To Public Institutions, Health and Human Services)
11, K 127-129

- SB 375**, allowing the division of parks and recreation to give rewards for information leading to the recovery of stolen division property. (McLane and Rep. Tufts of Rock. 13 - To Wildlife and Recreation)
11, psd 105-106, 110, nonconc H am, conf 1159-1160, 1315-1316, rep adop 1804, 1838, enr 1983 (Chapter 247)
- SB 376-FN-A**, relative to congregate services programs and making an appropriation therefor. (Podles et al - To Finance)
New title: relative to congregate services programs.
11, am 714, psd 868, nonconc H am, conf 1662-1663, 1683, rep adop 1804, 1839, enr 1983 (Chapter 248)
- SB 377-FN**, relative to penalties for mortgage brokers who fail to file annual reports. (Hollingworth - To Banks)
11, psd 74, 111, conc H am 1164, enr 1683 (Chapter 125)
- SB 378**, transferring duties under the uniform reciprocal enforcement of support act from county attorneys to the office of child support enforcement services. (McLane - To Judiciary)
New title: transferring certain duties under the uniform reciprocal enforcement of support act from county attorneys to the division of human services and providing for a transition period for such transfer.
11, am & Finance 119-120, psd 714, 868, conc H am 1771-1772, enr 1983 (Chapter 249)
- SB 379-FN**, changing the eligible age for free use of recreation areas from 65 to 70 and extending this privilege to all qualifying individuals. (McLane and Rep. Tufts of Rock. 13 - To Wildlife and Recreation)
11, IP 497-499
- SB 380**, relative to membership on planning boards in towns with the town council form of government. (Hollingworth et al - To Public Affairs)
First new title: relative to membership on planning boards in towns with the town council form of government and relative to the 4-year exemption from certain subdivision regulations and zoning ordinances.
Second new title: relative to membership on planning boards in towns with the town council form of government.
11, am 384-385, psd 413, conc H am 1087, enr 1236 (Chapter 89)
- SB 381**, relative to interest on escrow accounts. (Fraser - To Banks)
12, am & LT 299-307, am 527-530, psd 545, conc H am 1162, enr 1446 (Chapter 108)
- SB 382**, establishing a study committee on the selection, nomination and confirmation of judicial appointees. (Nelson - To Judiciary)
12, am 120, psd 158, H conc 1672, enr 1699 (Chapter 168)
- SB 383**, requiring that information be compiled regarding persons convicted of child abuse. (Nelson - To Education)
First new title: establishing a committee to recommend to the state board of education different methods of obtaining information on persons convicted of any felony involving child abuse.
Second new title: establishing a committee to recommend a method of screening school district applicants for employment for felony convictions.
12, am 235-236, psd 276, conc H am 1163, enr 1659 (Chapter 109)
- SB 384**, relative to foreclosures and sale of mortgaged property. (J. King et al - To Banks)
12, am 414-416, psd 545, H nonconc 1451
- SB 385**, to provide insurance coverage for court-ordered psychiatric and psychological services. (Hollingworth et al - To Insurance)
12, am 317-320, psd 413, H conc 1320, enr 1703 (Chapter 177)
- SB 386-FN**, relative to the publications, specialty items and fund raising revolving fund of the fish and game department and authorizing certain fund raising by the department. (Heath - To Wildlife and Recreation)
12, psd 106, 111, H conc 1060, enr 1088 (Chapter 58)

- SB 387**, authorizing legally constituted boards and commissions which are created for the purpose of state historic site restoration the option of retaining ownership of any historic site furnishings which they acquire with other than state funds. (Nelson et al - To Executive Departments)
12, psd 254-255, 276, H conc 1093, enr 1236 (Chapter 90)
- SB 388-LOCAL**, relative to preserving utility licenses on municipal and state discontinued highways. (Fraser - To Transportation)
12, am 131, psd 158, H conc 1012, enr 1088 (Chapter 59)
- SB 389-FN**, allowing for the surviving spouse of a POW veteran of war to maintain the POW plates privilege. (J. King et al - To Transportation)
12, LT 131-132, K 1954
- SB 390**, establishing a revenue estimating conference which shall estimate anticipated state revenues. (Disnard and Delahunty - To Internal Affairs)
12, LT 339, am 842-851, psd 868, H nonconc 1061
- SB 391**, relative to the use of surplus campaign funds by candidates for state office. (J. King et al - To Public Affairs)
New title: relative to the use of surplus campaign contributions by candidates for state office.
13, rcmt 124-125, am 385-387, psd 413, H conc 1093, enr 1236 (Chapter 91)
- SB 392**, relative to guardians ad litem. (Podles et al - To Judiciary)
New title: relative to guardians ad litem and establishing a committee to study the appointment, use, and compensation of guardians ad litem.
13, am 164-165, psd 179, conc H am 1640, enr 1717 (Chapter 212)
- SB 393**, creating a committee to study the feasibility of locating a college in Haverhill, New Hampshire. (W. King et al - To Education)
New title: relative to infrastructure development and making appropriations therefor.
13, am & Econ Dev 181-182, am 625-648, psd 868, nonconc H am, conf 1663, 1675, rep adop 1804, 1839-1847, enr 1987 (Chapter 260)
- SB 394**, relative to the jurisdiction of the labor department over self-insured workers' compensation programs. (Disnard et al - To Insurance)
13, am 89-93, psd 111, H conc 907, enr 1059 (Chapter 43)
- SB 395**, relative to penalties for persons less than 21 years of age charged with transportation of liquor. (Heath - To Judiciary)
13, K 165
- SB 396-FN**, relative to motor vehicles and defaults on court fines and taxes. (Heath - To Judiciary)
13, psd 165-166, 179, H nonconc 1092
- SB 397**, relative to long-term job supports for severely disabled persons. (Blaisdell et al - To Education)
13, psd 236-237, 276, H nonconc 1451
- SB 398**, permitting the sale of red deer and elk venison. (Disnard and Rep. Boucher of Rock. 23 - To Wildlife and Recreation)
13, psd 106-107, 111, conc H am 1087, enr 1236 (Chapter 92)
- SB 399-FN-LOCAL**, requiring rabies shots for cats. (Cohen et al - To Wildlife and Recreation)
13, am 387-392, psd 413, nonconc H am, conf 1310, 1452, 1701, rep adop 1804, 1847, enr 1986 (Chapter 250)
- SB 400-FN-A-LOCAL**, requiring fees in addition to licensure fees for dogs which are not spayed or neutered and using the increase to fund a state animal population control program and continually appropriating the companion animal population control fund. (Roberge et al - To Wildlife and Recreation)
New title: requiring fees in addition to licensure fees for certain dogs which are not spayed or neutered and using the increase to fund a state animal population control program and continually appropriating the companion animal population control fund.
13, am 392-398, psd 413, H nonconc 1061

- SB 401**, exempting chiropractors from jury service. (Disnard et al - To Judiciary)
New title: removing the exemption from jury service for physicians and surgeons.
 14, am 120-123, psd 158, H nonconc 1012
- SB 402**, allowing mutual insurers to convert into stock insurance companies. (Dupont et al - To Insurance)
New title: allowing mutual insurers to convert into stock insurance companies, regulating business transacted with producer controlled property/casualty insurance, and making other changes in the insurance laws.
 14, am & Econ Dev 320-338, K 649
- SB 403-LOCAL**, requiring that dogs and cats placed by shelters and pounds be spayed or neutered. (Shaheen and Roberge - To Wildlife and Recreation)
 14, psd 398, 413, H nonconc 1092
- SB 404-FN**, relative to chiropractic practitioners and privileged communications. (Disnard et al - To Judiciary)
 14, am 166-167, psd 180, H conc 1060, enr 1236 (Chapter 93)
- SB 405-FN**, relative to driver attitude training for repeat and habitual offenders. (Roberge - To Transportation)
 14, LT 132-134, rcmt 174-178, am 492-496, psd 545, conc H am 1162, enr 1699 (Chapter 163)
- SB 406**, relative to penalties for second DWI offenses. (Roberge and Russman - To Judiciary)
 14, LT 123, S Ct opin req (SR 1) 399-401, opin printed 1948-1952, K 1954
- SB 407-FN**, relative to the acceptance of credit cards for motor vehicle related offenses by clerks of court and bail commissioners. (Bass - To Transportation)
 14, am 134-135, psd 158, H nonconc 1061
- SB 408**, prohibiting entities from being sealers of their own weights and measures devices. (Pressly and J. King - To Public Affairs)
 14, K 98-99
- SB 409-FN**, relative to retail store inspections by weights and measures inspectors and license fees. (Hollingworth et al - To Public Affairs)
New title: relative to misrepresentations of weight by commercial packagers.
 14, rcmt 99-102, am 125-127, psd 158, H nonconc 1638
- SB 410**, relative to AIDS. (Fraser et al - To Public Institutions, Health and Human Services)
New title: creating a task force to study establishing precautionary measures to be followed by health care workers to control the spread of AIDS, hepatitis and tuberculosis.
 14, am 170-172, psd 180, nonconc H am, conf 1086, 1321, rep adop 1804, 1847, enr 1983 (Chapter 251)
- SB 411-FN**, relative to special education catastrophic aid. (Hough et al - To Education)
 15, am & Finance 237-240, psd 715, 868, conc H am 1453, recon & nonconc H am 1527
- SB 412-FN-LOCAL**, relative to signage by nonprofit organizations in zoned commercial or industrial areas. (W. King - To Transportation)
 15, LT 135-137, 412, am 530-535, psd 545, H study 1011
- SB 413-FN**, allowing nonprofit organizations to use informational signs on certain highways. (W. King - To Transportation)
 15, psd 137-138, 158, H nonconc 1061
- SB 414-FN**, authorizing a pilot program in one county for investigative services for attorneys providing counsel to indigent defendants. (Cohen - To Judiciary)
 15, Finance 167-168, psd 715, 868, H conc 1450, enr 1683 (Chapter 126)
- SB 415-FN-A**, establishing an economic development matching grants program. (W. King and Cohen - To Economic Development)
 15, K 649

SB 416, relative to reporting contributions for testimonials. (Heath - To Public Affairs)
15, K 1954

SB 417-FN, relative to underground storage tanks. (Heath - To Environment)
New title: requiring notification of associated costs of converting fuel heating systems and allowing recovery for costs of removal of leaking residential tanks from the oil discharge and disposal cleanup fund.
15, rules suspended 499, am 525-527, psd 545, H nonconc 1061

SB 418, changing the title of juvenile services officers to juvenile probation-parole officers. (J. King and Rep. Baroody of Hil. 39 - To Executive Departments)
15, am 255-256, psd 276, nonconc H am, conf 1158-1159, 1315, rep adop (K) 1848

SB 419-FN, relative to a parental choice in education program. (Humphrey - To Education)
15, LT 240-242, remarks 242-245, rcmt 246-247, LT 418, S Ct opin req (SR 5) 1397-1400, remarks 1934-1935, S Ct response 1952

SB 420-FN, relative to interviewing children under the provisions of the Child Protection Act. (Colantuono - To Judiciary)
15, am 359-361, psd 413, H nonconc 1062

SB 421-FN, relative to fireworks. (Currier et al - To Executive Departments)
15, am 256-259, psd 276, H conc 907, enr 1062 (Chapter 44)

SB 422-FN, requiring the division of motor vehicles to make notification of license revocation or suspension by certified mail. (Roberge - To Transportation)
15, K 138-139

SB 423-FN, providing incentives for banks operating in New Hampshire to invest in New Hampshire communities. (W. King and Cohen - To Banks)
New title: establishing a study committee on financial management of public funds.
16, rules suspended 499, am & Econ Dev 521-522, K 649

SB 424-FN, to prohibit the state from paying dues or other membership expenses for state employees. (Humphrey - To Internal Affairs)
16, K 339-340

SB 425-FN-LOCAL, relative to state and municipal cost sharing for state parks. (Shaheen et al - To Wildlife and Recreation)
New title: relative to statement of expenses for costs incurred for response to forest and brush fires.
16, am 107-109, psd 111, H conc 1450, enr 1699 (Chapter 164)

SB 426-FN, establishing a task force to develop a strategy to train police and prosecutors to successfully prevent, investigate and prosecute sexual assault cases. (Fraser et al - To Judiciary)
New title: establishing a task force to develop a strategy to train police, prosecutors and correctional personnel to successfully prevent, investigate and prosecute sexual assault cases.
16, am 123-124, psd 158, conc H am 1162, enr 1446 (Chapter 110)

SB 427-FN, requiring the registration of sexual offenders. (Fraser et al - To Judiciary)
16, am 269-270, psd 276, conc H am 1640, enr 1717 (Chapter 213)

SB 428-FN, designating segments of the Connecticut River for the rivers management program. (Disnard et al - To Environment)
First new title: designating segments of the Connecticut River for the rivers management program and allowing existing hydroelectric facilities to maintain operations.
Second new title: designating segments of the Connecticut River for the rivers management and protection program, reclassifying a segment of the Contoocook River, allowing existing hydroelectric facilities to maintain operations, and requiring the establishment of procedures before water can be released from dams.
16, am 419-420, psd 545, nonconc H am, conf 1164, 1315, new conf 1828-1829, remarks 1831-1832, rep adop 1893, 1895-1896, enr am 1972-1973, enr 1987 (Chapter 261)

SB 429, relative to selecting engineers, architects, and surveyors by state agencies. (Fraser - To Capital Budget)
16, am 559-561, psd 868, H conc 1093, enr 1683 (Chapter 127)

- SB 430**, relative to the establishment of regional offices for the vocational rehabilitation division. (Blaisdell et al - To Education)
16, psd 75-76, 111, H conc 1060, enr 1088 (Chapter 60)
- SB 431-FN-LOCAL**, creating liens in favor of health maintenance organizations for certain benefits provided. (McLane - To Insurance)
16, K 263-264
- SB 432-FN**, relative to motorcycle noise level limits and imposing fines and penalties for violations of those limits. (Hollingworth and Rep. Smith of Hil. 21 - To Transportation)
New title: relative to motorcycle noise level limits.
17, LT 139, am & Econ Dev 537-541, psd 649-651, 868, H conc 1093, enr 1236 (Chapter 94)
- SB 433-FN**, relative to the registration and equipment standards of motor vehicles known as street rods. (Shaheen et al - To Transportation)
17, am 139-142, psd 158, conc H am 1639-1640, enr 1892 (Chapter 214)
- SB 434-FN-LOCAL**, relative to an education program. (Heath et al - To Education)
17, LT 242, K 248-249
- SB 435-FN**, relative to temporary, seasonal and part-time state employees. (Currier and Rep. Peyron of Sul. 2 - To Insurance)
17, study 264
- SB 436-FN-LOCAL**, relative to aid to the permanently and totally disabled. (Hollingworth et al - To Public Institutions, Health and Human Services)
First new title: relative to aid to the permanently and totally disabled and the property tax exemption for the blind.
Second new title: relative to aid to the permanently and totally disabled.
Third new title: relative to aid to the permanently and totally disabled and the property tax exemption for the blind.
Fourth new title: relative to the property tax exemption for the blind.
17, am & Finance 480-483, am & LT 715-718, am 851-852, psd 868, conc H am 1453, enr am 1704, enr 1891 (Chapter 215)
- SB 437-FN**, relative to the New Hampshire Dental Service Corporation and relative to the premium tax on health maintenance organizations. (Disnard and Shaheen - To Ways and Means)
New title: relative to the New Hampshire Dental Service Corporation.
17, rules suspended 499, am 522-524, psd 545, recon notice 558, recon & am 865-866, psd 868, conc H am 1454, enr am 1953, enr 1986 (Chapter 252)
- SB 438-FN-A**, relative to the department of transportation equipment acquisition revolving fund and making an appropriation therefor and relative to redistributing certain funds within the department of transportation. (Roberge et al - To Capital Budget)
New title: relative to the department of transportation equipment inventory fund and making an appropriation therefor.
17, am 561-562, psd 868, H study 1639
- SB 439-FN**, relative to the maximum contaminant levels allowed in public water systems and prohibiting permits to be issued for any well to be drilled within a 3-mile radius of any superfund or hazardous waste site. (Cohen and Rep. McCarthy of Rock. 18 - To Environment)
17, K 420
- SB 440-FN**, establishing a statewide water conservation program. (Cohen - To Environment)
17, am 420-422, psd 545, H nonconc 1062
- SB 441-FN-A**, establishing a statewide enhanced 911 system and continually appropriating a special fund. (Currier et al - To Executive Departments)
New title: establishing a statewide enhanced 911 system, continually appropriating a special fund and making an appropriation for initial costs of the system.
18, Finance (RC) 183-198, psd 718, 868, conc H am 1673-1674, enr 1699 (Chapter 165)

- SB 442-FN**, requiring the state to agree in negotiations to provide less than 100 percent coverage of medical expenses and to pay no more than 80 percent of health insurance premiums for current and retired state employees. (Humphrey - To Insurance)
18, K (RC) 264-269
- SB 443-FN**, requiring the division for children and youth services to develop, implement and administer an automated case management system. (Dupont - To Public Institutions, Health and Human Services)
First new title: requiring the division for children and youth services to study, develop, implement and administer an automated case management plan and making an appropriation therefor.
Second new title: requiring the division for children and youth services to develop, implement and administer an automated case management system and making an appropriation therefor.
18, Finance 129-130, psd 718, 868, conc H am 1772, enr 1955 (Chapter 216)
- SB 444**, relative to the definition of ski craft. (Currier et al - To Transportation)
18, psd (RC) 142-157, 158, H study 1093
- SB 445-FN**, relative to fuel sold to vessels at state piers. (Hollingworth et al - To Ways and Means)
New title: establishing a committee to study issues relating to the fishing industry.
18, rules suspended 499, am 524-525, psd 545, H nonconc 1638
- SB 446-A**, authorizing construction of exit 10 on the Spaulding turnpike from bonds previously authorized. (Dupont - To Capital Budget)
New title: authorizing construction of exit 10 on the Spaulding turnpike from bonds previously authorized and changing the classification of the Salmon Falls road in Rochester and Somersworth to class II.
18, am 562-563, psd 868, conc H am 1641, enr 1892 (Chapter 217)
- SB 447-LOCAL**, increasing the rate of interest paid on the amount of taxes abated. (W. King - To Ways and Means)
18, psd 271-274, 276, H nonconc 1092
- SB 448-LOCAL**, enabling municipalities to grant property tax credits to commercial enterprises making capital investments, increasing net employment, or undertaking research and development. (W. King et al - To Economic Development)
18, K 652
- SB 449-FN-A**, relative to venture capital and a tax credit against the business profits tax. (Cohen et al - To Ways and Means)
18, SO 275, K 284-285
- SB 450-FN**, relative to the industrial development authority. (Dupont - To Economic Development)
New title: relative to capital formation.
19, am 652-698, psd 868, nonconc H am, conf 1662, 1683-1684, rep adop 1804, 1848-1850, enr am 1962, enr 1988 (Chapter 262)
- SB 451-FN**, to require public hearings on proposed agency rules which result in fee changes. (Hollingworth et al - To Executive Departments)
19, Econ Dev 183, K 698-699
- SB 452-FN-LOCAL**, redistricting certain district courts. (Podles et al - To Judiciary)
19, LT 361-368, am 852-865, psd 868, conc H am 1319, recon, nonconc H am & conf 1397, 1450, rep adop 1804, 1850-1854, enr 1986 (Chapter 253)
- SB 453-FN**, relative to involuntary commitment procedures. (Russman and Rep. Record of Hil. 23 - To Public Institutions, Health and Human Services)
19, am 483-490, remarks 541, psd 545, conc H am 1319, enr 1717 (Chapter 218)
- SB 454-FN**, relative to the felony commitment procedure. (Russman and Rep. Record of Hil. 23 - To Judiciary)
19, study 368
- SB 455-FN**, relative to the Pease development authority. (Cohen et al - To Executive Departments)
19, Econ Dev 313-315, K 699

- SB 456-FN**, requiring parental notification before abortions may be performed on unemancipated minors. (Humphrey - To Judiciary)
19, LT (RC) 369-372, K 1954
- SB 457-FN**, relative to sale of beverages by beverage manufacturers. (Russman and Cohen - To Ways and Means)
19, SO 275, psd (RC) 285-290, 413, recon notice 414, recon & LT 543-544, K 1954
- SB 458-FN-A**, creating a credit against the business profits tax for conversion of defense production to civilian production. (W. King and Cohen - To Ways and Means)
19, SO 275, K 290-291
- SB 459-FN**, limiting increases in electric rates. (Hollingworth et al - To Economic Development)
19, rules suspended & psd (RC) 500-521, 545, remarks 915, H nonconc 1012
- SB 460-FN**, establishing a department of commerce. (W. King and Cohen - To Economic Development/Executive Departments)
20, rcmt 183, K 315-317
- SB 461-FN**, relative to the New Hampshire port authority and creating a study committee to establish criteria for the merger of the Pease development authority and the port authority. (Cohen et al - To Economic Development)
20, K 699
- SB 462-FN**, relative to optional allowances and beneficiaries under the New Hampshire retirement system. (J. King et al - To Insurance)
20, am 432-434, psd 545, H conc 1451, enr 1699 (Chapter 166)
- SB 463-FN**, relative to academic course credit transfers within the university system. (Oleson - To Education)
20, K 182
- SB 464-FN**, relative to intellectual property. (W. King et al - To Economic Development)
20, K 699
- SB 465-FN-A**, relative to charitable gambling. (Disnard et al - To Ways and Means)
20, SO 275, IP 291-298
- SB 466-FN**, providing for informed consent relative to abortion. (Humphrey - To Judiciary)
20, K (RC) 372-378
- SB 467-FN-LOCAL**, changing the interest rates on delinquent property taxes and subsequent taxes and requiring a certificate of tax payment prior to the moving of a building or structure. (Delahunty - To Public Affairs)
New title: requiring evidence of tax payment for the moving of a building or structure.
20, am 452-455, psd 545, conc H am 1161, enr 1682 (Chapter 128)
- SB 468-FN**, relative to the authority of the ethics committee and relative to reporting gifts and honorariums. (Bass - To Public Affairs)
20, LT 456, K 1954
- SB 469-FN**, relative to retirees' cost of living adjustments, service retirement allowances, and continuing education conferences. (Bass - To Insurance)
New title: relative to service retirement allowances and continuing education conferences for retirement system board of trustees.
20, am 719-723, psd 868, H study 1093
- SB 470-FN-LOCAL**, relative to using electronic monitoring devices and community supervision as an alternative to prison. (Humphrey - To Judiciary)
20, am 442-446, psd 545, H nonconc 1092
- SB 471-FN**, authorizing child day care to certain AFDC clients. (Shaheen et al - To Public Institutions, Health and Human Services)
21, am 491-492, psd 545, H conc 1451, enr 1699 (Chapter 167)

SB 472-FN, relative to the victims' assistance fund and modifying sexual assault statutes and continuing a study committee. (Fraser et al - To Judiciary)
First new title: relative to the victims' assistance fund, the definition of obscene material, modifying sexual assault statutes, and continuing a study committee.
Second new title: relative to modifying sexual assault statutes and continuing a study committee.
 21, am 378-381, psd 413, nonconc H am, conf 1649-1650, rep adop 1804, 1854-1855, enr 1983 (Chapter 254)

SB 473-FN-A, relative to a fund for organ transplantation and transferring responsibility from vocational rehabilitation to the division of human services. (McLane et al - To Public Institutions, Health and Human Services)
 21, Finance 130, am 718-719, psd 869, H nonconc 1638

SB 474-FN, relative to regular sessions of a district court in towns within the district. (Podles et al - To Judiciary)
 21, am 381-383, psd 413, H conc 1320, enr 1683 (Chapter 129)

SB 475-FN, relative to retirement system benefits for withdrawing nongovernmental employees. (Russman)
 rules suspended, intro & psd 279-281, nonconc H am, conf 1642, H rej conf 1684

SENATE JOINT RESOLUTION

SJR 1-FN, requiring the department of education to develop a computer education program for public schools. (Nelson et al - To Education)
New title: requiring the department of education to develop computer education guidelines for public schools.
 21, psd 76-77, 111, conc H am 1454, enr am 1704, enr 1891 (Chapter 219)

SENATE CONCURRENT RESOLUTIONS

1991 RESOLUTION RE-REFERRED TO COMMITTEE

SCR 2, urging the Federal Energy Regulatory Commission to deny a rate increase for Public Service Company of New Hampshire.
 H nonconc 59

1992 RESOLUTIONS

SCR 10, urging that the dual-chartering system for credit unions be preserved and protected. (Fraser and Rep. Hill of Mer. 14 - To Banks)
 22, K 74-75

SCR 11, encouraging the U.S. Congress to consider the economic impact of federal laws and legislation on states. (Podles et al - To Economic Development)
New title: encouraging the U.S. Congress and the President of the United States to consider the economic impact of federal laws and legislation on states.
 22, LT 75, am 172-174, adop 180, H conc 1060

SCR 12, concerning the constitution of the United States. (McLane - To Internal Affairs)
 22, K (RC) 434-442

SCR 13, accepting the factfinder's report and recommendations relative to contract negotiations between the State Employees Association and the state of New Hampshire. (Hough)
 rules suspended, intro & adop (RC) 1879-1889, 1890, H nonconc 1958

SENATE RESOLUTIONS

SR 1, requesting an opinion of the justices concerning the constitutionality of SB 406. (Roberge and Russman)
 intro & adop 399-401, S Ct opin printed 1948-1952

SR 2, proclaiming October 12, 1992 as Native American Day, which day also commemorates the 500th anniversary of the arrival of Christopher Columbus. (Cohen)
 rules suspended, intro & adop 281-284

SR 3, proclaiming Labor Day 1992 as "Help Yourself-Buy American Day". (Podles and Rep. Hill of Mer. 14)
 intro & adop 840-842

- SR 4**, requesting an opinion of the justices concerning the constitutionality of HB 677-FN. (Podles)
intro & adop 1066-1067, S Ct opin printed 1935-1941
- SR 5**, requesting an opinion of the justices concerning the constitutionality of SB 419-FN. (Humphrey)
intro & adop (RC) 1397-1400, remarks 1934-1935, S Ct response 1952
- SR 6**, urging the United States Congress to continue to operate, develop, and diversify the Portsmouth Naval Shipyard. (Cohen)
intro & adop 1434-1435
- SR 7**, condemning a recent cross-burning incident. (Colantuono)
intro & adop 1878-1879

HOUSE BILLS

1991 BILLS RE-REFERRED TO COMMITTEE

- HB 61**, repealing the prospective repeal of the victims' assistance fund and making technical corrections in the distribution of penalty assessment funds. (Judiciary)
546, am 1063-1064, psd 1089, H conc 1451, enr am 1906, enr 1985 (Chapter 220)
- HB 263-FN**, establishing a fee structure for used oil marketers. (Environment)
72, am 910-912, psd 916, H conc 1699, enr 1717 (Chapter 178)
- HB 264-FN-A**, placing hazardous waste transporter permit application fees in the hazardous waste cleanup fund. (Environment)
First new title: placing hazardous waste transporter permit application fees in the hazardous waste cleanup fund, requiring notification of associated costs of converting fuel heating systems, restricting the filling of liquefied petroleum gas containers, relative to the state advisory board of fire control, and substituting the New Hampshire Association of Fire Chiefs for the state advisory board office control for purposes of nominating the state fire marshal.
Second new title: placing hazardous waste transporter permit application fees in the hazardous waste cleanup fund, requiring notification of associated costs of converting fuel heating systems, restricting the filling of liquefied petroleum gas containers, relative to the state advisory board of fire control.
73, am 1473-1476., psd 1679, H nonconc, conf 1684-1685, rep adop 1704-1706, 1877, enr am 1963, enr 1983-1984 (Chapter 263)
- HB 285-A**, relative to constructing regional vocational centers and making an appropriation therefor. (Capital Budget)
72, psd (RC) 1015-1016, 1052, enr 1088 (Chapter 47)
- HB 317-FN**, relative to a minimum service retirement allowance for group II members and making an appropriation for administrative costs. (Insurance)
546, psd 1115-1116, 1166, enr 1682 (Chapter 112)
- HB 321-FN**, relative to small employer insurance. (Insurance)
First new title: relative to small employer insurance and creating the position of life, accident and health actuary within the insurance department.
Second new title: relative to small employer insurance and creating the position of life, accident and health actuary within the insurance department and making an appropriation therefor.
71, am 1116-1123, psd 1166, H conc 1638, enr am 1906-1907, enr 1985 (Chapter 221)
- HB 326-FN**, relative to disciplinary hearings before the pharmacy board. (Executive Departments)
71, psd 1020, 1052, enr am 1235, enr 1445 (Chapter 97)
- HB 338-FN**, prohibiting the detention of minors in adult correctional facilities and jails. (Judiciary)
71, psd 902, 907, enr 1012 (Chapter 18)
- HB 343-FN**, to define total expenditures made during a state primary election. (Public Affairs)
72, K 1260-1261

- HB 379-FN**, relative to advertising devices within highway rights-of-way. (Transportation)
71, psd 496-497, 545, enr 557, H sustained veto 1063
- HB 404**, requiring the introduction of legislation in the 1993 session relative to the joint board of engineers, architects, land surveyors, foresters and natural scientists. (Executive Departments)
546, K 1331
- HB 410-FN**, relative to alternatives to incarceration and requiring the commissioner of the department of safety to review and make legislative recommendations on the point system as it applies to habitual offenders. (Judiciary)
72, psd 902, 908, enr 1012 (Chapter 19)
- HB 411**, relative to discrimination in the issuance of health insurance policies and relative to access to group plans. (Insurance)
New title: relative to discrimination in the issuance of health insurance, access to group plans, and health insurance during adoption proceedings.
71, LT 1124-1131, remarks 1165-1166, am 1214-1223, psd 1237, H conc 1451, enr am 1905-1906, enr 1985 (Chapter 222)
- HB 422-FN**, relative to the use of excess campaign contributions by individuals who do not accept expenditure limitations. (Public Affairs)
72, K 903
- HB 446-FN**, relative to the board of registration in medicine and relative to the definition of psychologist. (Executive Departments)
71, am 1020-1021, psd 1052, H conc 1316, enr 1717 (Chapter 179)
- HB 469-A**, relative to improvements on route 106 and making an appropriation therefor. (Capital Budget)
73, psd 1327, 1446, enr 1717 (Chapter 180)
- HB 470**, relative to health maintenance organizations. (Public Institutions, Health and Human Services)
71, psd (RC) 1188-1195, 1237, enr 1682 (Chapter 113)
- HB 477-FN**, relative to public hearings, notice, and the filing of rules under the administrative procedure act. (Executive Departments)
72, K 1246
- HB 497**, relative to an equipment challenge grant program for vocational and technical education programs. (Education)
New title: relative to an equipment challenge grant program for vocational and technical education programs, and making an appropriation therefor.
73, am & Finance 1101-1104, am 1552-1556, psd 1679, H nonconc, conf 1691, rep adop 1706-1707, 1878, enr am 1962, enr 1984 (Chapter 259)
- HB 503**, relative to recovery of medical assistance payments. (Public Institutions, Health and Human Services)
71, psd 1031-1032, 1052, enr 1062 (Chapter 30)
- HB 504-FN**, requiring licensure of medical utilization review entities. (Insurance)
72, am 1132, psd 1166, H conc 1316, enr 1699 (Chapter 142)
- HB 505-FN**, relative to the normal yield tax, the extension of the reporting deadline for the study committee on clearcutting forest resources, the report of cut, and creating a committee to study forest protection and management. (Environment)
73-74, am 1476-1478, psd 1680, H conc 1700, enr 1907 (Chapter 181)
- HB 526-FN**, relative to extended terms of imprisonment and transfers to the state prison. (Judiciary)
New title: relative to transfers to the state prison.
72, am 1064-1065, psd 1089, H conc 1451, enr 1698 (Chapter 143)
- HB 527-FN-A**, licensing speech-language pathologists and making an appropriation therefor. (Executive Departments)
546, LT 1331-1338, am (RC) 1595-1608, psd 1680, H conc 1700, enr am 1965, enr 1987 (Chapter 264)

- HB 534-FN**, amending the habitual offender penalties to provide for special alternative incarceration. (Judiciary)
71, psd 917-919, 1013, enr 1062 (Chapter 31)
- HB 545**, reapportioning the executive council districts. (Internal Affairs)
546, psd 1026-1027, 1052, enr 1164 (Chapter 61)
- HB 562**, extending the surgical authority of podiatrists. (Public Institutions, Health and Human Services)
71, psd 1032, 1052, enr 1164 (Chapter 63)
- HB 564-FN**, enabling towns and cities to establish heritage commissions. (Public Affairs)
72, psd 903, 908, enr 1235 (Chapter 64)
- HB 569**, to reapportion county commissioner districts. (Internal Affairs)
546, psd 1027, 1052, enr 1235 (Chapter 62)
- HB 585-FN**, recodifying the laws relative to emergency medical services. (Executive Departments)
73, am 914, psd 916, H conc 1011, enr 1088 (Chapter 48)
- HB 591**, reapportioning the state house of representatives districts. (Internal Affairs)
New title: reapportioning the state house of representatives and the state senate districts.
869, psd 1495, recon & LT 1496, SO (RC) 1655-1658, LT 1659-1661, am (2 RCs) 1665-1672, recon rej 1679, psd 1680, H conc & enr 1696 (Chapter 130)
- HB 601**, establishing a public water access advisory board and a statewide public boat access program and continually appropriating a special fund for the purposes of the program and creating a new class of highways for access to public waters. (Wildlife and Recreation)
870, am & Finance 1288-1299, LT 1361-1363, psd 1417-1418, 1446, H nonconc, conf 1647-1648, rep adop 1708-1709, 1878, enr am 1966-1967, enr 1987 (Chapter 265)
- HB 632-FN**, relative to administrative due process hearings concerning special education disputes and establishing a committee to study alternative methods of dispute resolution for the special education of educationally disabled students. (Education)
72, psd 1104, 1166, enr 1682 (Chapter 114)
- HB 646-FN**, relative to the disposal of certain solid waste products and leaf and yard waste. (Environment)
72, am 1240-1241, psd 1312, H nonconc, conf 1664-1665, rep adop 1709-1710, 1878, enr am 1963, enr 1986 (Chapter 266)
- HB 675-FN**, relative to DWI penalties while operating a motor vehicle, OHRV, or boat or while transporting a child. (Judiciary)
New title: relative to DWI penalties while operating a motor vehicle, OHRV, or boat or while transporting a child, and establishing that fines for summonses for motor vehicle violations for which a plea may be made by mail be paid to the division of motor vehicles and making an appropriation therefor.
71, am 1348-1354, psd 1446, H nonconc, conf 1676-1677, rep adop 1710-1712, 1878, enr am 1969-1972, enr 1988 (Chapter 257)
- HB 677-FN**, establishing a 2-year pilot program in Rockingham county eliminating the trial de novo system in misdemeanor cases. (Judiciary)
73, LT 1065, S Ct opin req (SR 4) 1066-1067, opin printed & psd 1935-1948, 1955, enr 1985 (Chapter 223)
- HB 689-FN**, relative to implied consent and administrative motor vehicle license suspension. (Judiciary)
870, am 1354-1355, psd 1447, H nonconc, conf 1677-1678, rep adop 1712-1714, 1878, enr am 1968, enr 1987 (Chapter 258)
- HB 693**, relative to disclosure of tax records related to investigations by the attorney general and relative to forfeiture of items seized in connection with controlled drug offenses. (Judiciary)
New title: relative to forfeiture of items seized in connection with controlled drug offenses.
546, am 1067-1070, psd 1089, H conc 1451, enr 1908 (Chapter 182)

HB 714-FN, relative to a life saver i.d. program. (Executive Departments)
71, psd 1021-1022, 1052, enr 1164 (Chapter 65)

HB 716-FN, relative to establishing a committee to study septic-related issues. (Environment)
71, K 912

HB 726-FN-A, relative to fees charged for vital records. (Public Institutions, Health and Human Services)
71, LT 1032, psd 1057-1058, 1059, enr 1165 (Chapter 66)

HB 740-FN, relative to increasing political expenditure limitations for certain candidates and relative to the penalty for exceeding total expenditure limitations. (Public Affairs)
First new title: increasing political expenditure limitations for certain candidates, relative to the penalty for exceeding total expenditure limitations, establishing a campaign spending administrative account, and relative to reporting requirements for candidates.
Second new title: increasing political expenditure limitations for certain candidates, relative to the penalty for exceeding total expenditure limitations, establishing a campaign spending administrative account, relative to reporting requirements for candidates, and making a supplemental appropriation to the secretary of state.
74, am 1261-1265, psd 1312, H nonconc, conf 1645-1646, rep rej, new conf 1876, rep adop 1892-1893, 1901-1903, enr am 1968-1969, enr 1987 (Chapter 267)

HB 747-FN, establishing a committee to study ways for retail liquor store operations to maximize state revenues while maintaining adequate service to the community and allowing the liquor commission to vary its liquor prices from store to store. (Ways and Means)
71, K 1214

HB 758-FN, relative to the right to privacy act. (Judiciary)
71, am 1496-1503, psd 1680, H nonconc, conf 1685, rep adop 1714-1715, 1878, enr 1986 (Chapter 268)

HB 762-FN, to incorporate the inhabitants of the northeasterly part of Laconia into a separate town to be known as Weirs Beach, with all the privileges and immunities of other towns in this state. (Public Affairs)
72, K 922-930

HB 778-FN, relative to the laws against discrimination. (Public Affairs)
72, LT 1367-1385, am 1577-1594, psd 1680, H nonconc, conf 1693, rep adop 1715, 1878, enr am 1958-1960, enr 1985 (Chapter 224)

HB 783, relative to motor vehicle records and DWI convictions. (Judiciary)
72, psd 919, 1013, enr 1058 (Chapter 32)

1992 BILLS

HB 1000, establishing a study committee on certain issues regarding the next constitutional convention and authorizing a special election for electing Concord charter commission members.
rules suspended, intro & psd (2 RCs) 31-46, psd & enr 56 (Chapter 1)

HB 1005, relative to the reapportionment of house districts within cities and the election of delegates to state party conventions. (Internal Affairs)
869, LT 1495-1496, am 1672-1673, psd 1680, H nonconc, conf 1695-1696, rep adop 1715-1717, 1878, enr 1955 (Chapter 183)

HB 1025-A, relative to budget adjustments for fiscal years 1992 and 1993. (Finance)
870, am (RC) 940-992, psd 1013, H nonconc, conf 1090, rep rej, new conf 1855-1876, 1895, recon & rep adop 1933-1934, 1956, enr 1988 (Chapter 256)

HB 1026, relative to a companion bill to the supplemental budget. (Finance)
870, am (RC) 992-1011, psd 1013, H nonconc, conf 1313, rep adop (RC) 1718-1770, H rej rep, new conf 1894-1895, rep adop 1908-1933, 1989, enr am & enr 1989-1990, veto overridden (RC) 1991-1999 (Chapter 289)

HB 1050-FN-LOCAL, limiting outdoor advertising devices and increasing permit fees for maintaining outdoor advertising devices. (Transportation)
547, LT 1277-1278, am 1571-1577, psd 1680, H nonconc 1700

- HB 1052**, relative to the appointment of the executive director of the fish and game department and allowing the governor to make more frequent appointments to the fish and game commission. (Wildlife and Recreation)
547, LT 1299-1302, am 1436-1440, psd 1447, H nonconc, conf 1645, rep adop 1772-1773, 1956, enr 1985 (Chapter 225)
- HB 1053-A**, relative to state revenues and expenditures. (Finance)
74, am (RC) 209-223, psd 224, H conc 269, enr 412 (Chapter 6)
- HB 1054-FN**, relative to the industrial development authority. (Economic Development)
554, am (2 RCs) 880-900, psd 908, H conc 1011, enr 1088, remarks 1889-1890 (Chapter 46)
- HB 1100-FN-LOCAL**, establishing a housing assistance trust fund. (Public Affairs)
74, am 468-469, psd 545, H conc 551, enr 907 (Chapter 12)
- HB 1101-FN**, relative to certain liquor license fees and expanding certain prohibitions regarding competing interest in liquor and wine sales. (Ways and Means)
547, LT 1223-1224, am 1418-1419, psd 1447, H conc 1700, enr am 1961, enr 1985 (Chapter 226)
- HB 1104-FN**, relative to capitalization of the affordable housing fund. (Public Affairs)
547, LT (RC) 1529-1544, am (2 RCs) 1609-1620, psd 1680, H nonconc 1700
- HB 1105**, relative to disclosure of campaign contributions by candidates for local and school district elections. (Public Affairs)
554, am 1385-1386, psd 1447, H nonconc, conf 1646, rep adop (K) 1773-1774, 1957
- HB 1107-LOCAL**, requiring that tax collectors provide property owners with notices of arrearages for property taxes. (Public Affairs)
547, psd 1030, 1052, enr 1088 (Chapter 49)
- HB 1108**, authorizing valid living wills executed in other states to be recognized in New Hampshire. (Judiciary)
552, psd 1070-1071, 1089, enr 1235 (Chapter 67)
- HB 1110**, relative to the method of electing delegates to state party conventions. (Public Affairs)
278, psd 1080, 1089, enr 1235 (Chapter 68)
- HB 1111**, relative to liquor and beverage licensees delinquent in paying accounts and relative to advertising liquor and beverages. (Ways and Means)
278, psd 1225-1226, 1237, enr 1682 (Chapter 115)
- HB 1113**, relative to compatible and conflicting liquor and beverage licenses. (Ways and Means)
547, LT 1226-1227, am 1432-1434, psd 1447, H conc 1700, enr 1699 (Chapter 144)
- HB 1114**, adding and changing certain definitions in the liquor laws and relative to the transportation of wine and liquor. (Ways and Means)
278, am 1227-1228, psd 1237, H conc 1451, enr 1698 (Chapter 145)
- HB 1115**, changing obsolete references within the liquor laws. (Ways and Means)
547, psd 1228, 1237, enr 1699 (Chapter 146)
- HB 1116**, relative to certain liquor and beverage licenses. (Ways and Means)
547, LT 1228-1230, am 1441-1445, psd 1447, H conc 1700, enr 1698 (Chapter 147)
- HB 1117**, relative to the minimum age requirements for liquor license applicants, relative to employing minors in licensed establishments, and relative to games and amusements on the premises of on-sale licensees. (Ways and Means)
547, am 1230-1231, psd 1237, recon notice 1239, H nonconc, conf 1694, rep adop 1774, 1956, enr 1985 (Chapter 227)
- HB 1118**, relative to membership of the permanent committee for barrier-free design. (Public Affairs)
552, psd 1055, 1059, enr 1088 (Chapter 50)

- HB 1119**, relative to the New Hampshire automated information system board. (Executive Departments)
73, psd 1022, 1053, enr 1088 (Chapter 51)
- HB 1121-FN**, authorizing contracting for the operation of the impaired pharmacist program and funding the program from annual license renewal fees. (Executive Departments)
547, psd 901, 908, enr 1012 (Chapter 20)
- HB 1122**, establishing a committee to study all areas of apple cider standards, licensing and labeling. (Public Affairs)
547, psd 1055, 1059, enr 1088 (Chapter 52)
- HB 1123**, establishing procedures for representation in small claims court and authorizing persons to appear for corporations, partnerships, and trusts in district court. (Judiciary)
New title: establishing procedures for representation of corporations, partnerships, and trusts in small claims actions.
554, am 1071-1073, psd 1089, H nonconc, conf 1642, rep adop 1774-1776, 1956, enr 1985 (Chapter 228)
- HB 1124-LOCAL**, allowing a town to apply certain rental welfare assistance payments to certain amounts owed to a town for the assisted person's landlord's delinquent water, sewer, electricity or tax payments and relative to interest rates on security deposits. (Public Affairs)
547, psd 1265, 1312, enr 1891 (Chapter 184)
- HB 1126-FN**, allowing the public utilities commission to appoint a receiver or to take over the operations of any utility with annual revenues below \$2,000,000 which fails to provide adequate service. (Executive Departments)
278, psd 1246, 1312, enr 1702 (Chapter 169)
- HB 1128**, classifying certain misdemeanors as either class A or class B. (Judiciary)
554, am 1355-1358, psd 1447, H nonconc, conf 1648, 1701, rep adop 1776-1777, 1956, enr 1984 (Chapter 269)
- HB 1129**, designating the insurance department as the regulatory body for approval of motor vehicle warranty agreements. (Insurance)
73, am 1178-1187, psd 1237, H nonconc, conf 1319-1320 (K H)
- HB 1130**, relative to ejecting persons from racetracks whose presence is inconsistent with proper conduct of a race meet and relative to unclaimed pari-mutuel pool tickets. (Ways and Means)
New title: relative to ejecting persons from racetracks whose presence is inconsistent with proper conduct of a race meet, relative to unclaimed pari-mutuel pool tickets and extending the existing capital improvement and promotional fund for greyhound race-tracks.
278, Finance 1045, am 1112-1115, psd 1166, H conc 1700-1701, enr 1891 (Chapter 185)
- HB 1135**, relative to liquidation under the supervision of the bank commissioner. (Banks)
552, psd 1093, 1166, enr 1445 (Chapter 98)
- HB 1136**, relative to regulation of small loans. (Banks)
New title: relative to the regulation of small loans and second mortgage home loans.
547, rcmt 1095, am 1321-1324, psd 1447, H nonconc, conf 1678-1679, rep adop 1777-1778, 1956, enr 1985 (Chapter 229)
- HB 1137**, relative to nondepository first mortgage bankers and brokers. (Banks)
547, psd 1093-1094, 1166, enr 1446 (Chapter 99)
- HB 1138**, relative to the board of trust company incorporation's consideration of petitions for incorporation of savings banks. (Banks)
73, am 1324-1325, psd 1447, H nonconc, conf 1678, rep rej, new conf 1779-1782, 1877, rep adop 1893, 1900-1901, 1956, enr 1985 (Chapter 230)
- HB 1139**, relative to persons licensed to offer second mortgage home loans. (Banks)
547, psd 1094, 1166, enr 1697 (Chapter 131)

- HB 1140**, relative to exempting New Hampshire banks from acquisitions by out-of-state banks. (Banks)
New title: relative to exempting New Hampshire banks from acquisitions by out-of-state banks and bank holding companies.
73, am 1168-1169, psd 1237, H conc 1450, enr 1698 (Chapter 148)
- HB 1141**, relative to retail installment sales of motor vehicles. (Banks)
552, psd 1094-1095, 1166, enr 1682 (Chapter 116)
- HB 1142**, permitting the bank commissioner to delegate duties and responsibilities. (Banks)
73, am 1095-1096, psd 1166, H conc 1321, enr 1682 (Chapter 117)
- HB 1143-FN-A**, increasing the per-brand registration fee for commercial feed and establishing an agricultural product and scale testing fund. (Public Affairs)
554, K 1386-1387
- HB 1144**, relative to the examination of school bus operators. (Transportation)
278, psd 1034-1037, 1053, enr 1236 (Chapter 69)
- HB 1148**, relative to technical corrections in certain tax laws. (Ways and Means)
278, am, rules suspended & psd 876-879, H conc 906, enr 907 (Chapter 13)
- HB 1151**, establishing a committee to study the economic feasibility of utilizing vacant space at the New Hampshire hospital for certain state offices. (Executive Departments)
870, psd 1246-1247, 1312, enr 1658 (Chapter 100)
- HB 1152**, authorizing the office of child support enforcement services, a dependent child or his parent or guardian to receive directly from a health insurer a certificate of insurance covering any dependent child. (Public Institutions, Health and Human Services)
278, psd 1032-1033, 1053, enr 1062 (Chapter 33)
- HB 1153-FN-A**, authorizing the division of human services to assess an administrative fine on employers for failing to comply with an assignment order. (Public Institutions, Health and Human Services)
869, psd 1195, 1237, enr 1446 (Chapter 101)
- HB 1154**, relative to an exemption for the sale of hypodermic syringes for school use. (Public Institutions, Health and Human Services)
548, psd 1195-1196, 1237, enr 1658 (Chapter 102)
- HB 1156**, changing the annual rate of interest on judgments and business transactions. (Banks)
548, rcmt 1096-1098, K 1325
- HB 1159-FN**, relative to when municipal sewage disposal systems are considered public utilities. (Environment)
New title: relative to when municipal sewage disposal systems are considered public utilities and directing the university of New Hampshire and the department of environmental services to study the use of municipal solid waste bottom ash as daily landfill cover for lined landfills.
278, am 1478-1479, psd 1680, H conc 1700, enr 1702 (Chapter 170)
- HB 1161**, relative to the composition of the wetlands board. (Executive Departments)
548, K (RC) 1247-1252, recon notice 1312, recon & psd 1565-1567, 1680, enr 1891 (Chapter 186)
- HB 1163**, relative to a public employee's right to require that a nonpublic session under the right-to-know law be open to the public. (Judiciary)
548, psd 919-920, 1013, enr 1058 (Chapter 34)
- HB 1164**, relative to seaplanes operating on bodies of water in New Hampshire. (Transportation)
552, am 1037-1039, psd 1053, H conc 1316, enr am 1703, enr 1890 (Chapter 187)
- HB 1166**, changing the definition of "commercial boat" for the purposes of boat registration and granting a muffler exemption for antique and classic boats. (Transportation)
552, LT 1039-1041, am 1048-1049, psd 1053, H conc 1316, enr 1697 (Chapter 132)

- HB 1167**, relative to the police commission in the town of Conway. (PublicAffairs)
552, am 1387-1388, psd 1447, H nonconc 1672
- HB 1172**, increasing the amount of the homestead right. (Public Affairs)
548, am 1187-1188, psd 1237, H conc 1321, enr 1682 (Chapter 118)
- HB 1173**, allowing a beneficial interest owner of a trust owning real estate to qualify for property tax exemptions and credits and allowing the veterans' exemption for service in the Gulf War. (Public Affairs)
548, psd 1080-1081, 1089, enr 1236 (Chapter 70)
- HB 1175**, creating a committee to study medical liability insurance in New Hampshire. (Insurance)
548, am 1132-1133, psd 1167, H nonconc, conf 1320, rep adop (K) 1785-1786, 1957
- HB 1178**, extending the appropriation for the Manchester district court facility. (Capital Budget)
New title: extending appropriations for the Manchester district court facility and for the department of environmental services.
552, am 1169-1170, psd 1237, H conc 1451, enr 1699 (Chapter 149)
- HB 1182-FN**, authorizing the division of human services to establish a system to recoup child support payments made in error, clarifying confidentiality of certain information and allowing the division to close certain cases. (Public Institutions, Health and Human Services)
New title: authorizing the division of human services to establish a system to recoup child support payments made in error, clarifying confidentiality of certain information, and allowing the division to close certain cases.
548, LT 1273-1275, am 1406-1411, psd 1447, H nonconc, conf 1644-1645, rep adop 1786-1787, 1956, enr am 1965-1966, enr 1987 (Chapter 270)
- HB 1183-FN**, relative to the importation, propagation and possession of aquatic and wildlife species. (Wildlife and Recreation)
554, psd 1302, 1312, enr 1702 (Chapter 171)
- HB 1185-FN**, authorizing the department of transportation to conduct surveys over certain roads, prescribe special rules for student driver training, exempt certain transportation operations from certain motor carrier statutes and relative to laying out class I and II highways. (Transportation)
278, am 1278-1279, psd 1312, H conc 1684, enr 1698 (Chapter 150)
- HB 1186-FN**, authorizing the department of fish and game to purchase the Morrill Pond dam and abutting property in the town of Canterbury. (Wildlife and Recreation)
New title: assigning certain dams to the department of fish and game, transferring funds to the dam maintenance fund and authorizing the department of fish and game to purchase the Morrill Pond dam and abutting property in the town of Canterbury.
869, am 1047-1048, psd 1053, H conc 1316, enr 1698 (Chapter 151)
- HB 1187**, making it first degree assault to knowingly or recklessly cause serious bodily injury to a person under 13 years of age. (Judiciary)
554, psd 1073, 1089, enr 1236 (Chapter 71)
- HB 1190**, creating a committee to study ways to clarify the relationship between the legislative bodies and governing bodies in towns, school districts and village districts operating under the town meeting form of government with respect to budgetary matters. (Public Affairs)
548, psd 1388, 1447, enr 1698 (Chapter 152)
- HB 1191**, prohibiting insurance companies from nonrenewing a homeowner's policy solely on the basis that a claim has been filed. (Insurance)
552, am 1133-1134, psd 1167, H conc 1321, enr 1697 (Chapter 133)
- HB 1192**, relative to remedies under the whistleblowers' protection act. (Judiciary)
548, psd 1073-1074, 1089, enr 1236 (Chapter 72)
- HB 1196**, clarifying the amount to be paid from the firemen's relief fund in the event of a claim. (Insurance)
548, psd 1135, 1167, enr 1446 (Chapter 103)

- HB 1201-FN**, relative to the license fee structure for domestic wine manufacturers. (Ways and Means)
548, psd 1231-1232, 1237, enr 1658 (Chapter 104)
- HB 1202**, permitting municipalities that have biennial municipal elections to submit charter changes for approval at biennial state elections. (Public Affairs)
New title: permitting municipalities that have biennial municipal elections to submit charter changes for approval at biennial state elections, relative to filing for more than one seat on the same municipal board, and relative to the authority of the Concord charter commission.
552, LT 1082-1084, am 1401-1403, psd 1447, H conc 1701, enr 1683 (Chapter 96)
- HB 1204**, requiring the director of motor vehicles to notify any seriously injured person when the director conducts a license revocation or suspension hearing regarding a motor vehicle accident involving a fatality or serious injury. (Transportation)
278, psd 904, 908, enr 1012 (Chapter 21)
- HB 1207**, exempting hospice houses from certificate of need review. (Public Institutions, Health and Human Services)
552, psd 1033-1034, 1053, enr 1062 (Chapter 35)
- HB 1209**, establishing a committee to study the real estate valuation and revaluation process. (Public Affairs)
552, am 931, psd 1013, H conc 1060, enr 1165 (Chapter 73)
- HB 1210**, naming the Karner Blue butterfly the state butterfly. (Wildlife and Recreation)
279, psd 905, 908, enr 1012 (Chapter 22)
- HB 1211**, permitting public employees to file an unfair labor practice complaint after a certain time without exhausting administrative remedies. (Executive Departments)
555, am 1339-1340, psd 1447, H nonconc, conf 1664, rep adop 1787-1788, H rej rep, new conf 1803-1804, req for new conf rej 1889
- HB 1213**, clarifying that notice of claim of paternity be filed prior to a mother's voluntarily relinquishing her rights pursuant to an adoption. (Judiciary)
552, psd 1074-1075, 1089, enr 1236 (Chapter 74)
- HB 1214**, establishing a study committee to assess present enforcement of certain state environmental laws by environmental regulatory agencies of the state of New Hampshire. (Environment)
552, K 1328
- HB 1216**, allowing certain funds to be transferred to the new women's dormitory account at the New Hampshire technical institute. (Education)
555, psd 900, 908, enr 1012 (Chapter 23)
- HB 1217-LOCAL**, requiring a peace officer to give written notice of certain charges to the county attorney. (Judiciary)
555, psd 1075, 1089, enr 1236 (Chapter 75)
- HB 1219-FN**, relative to recovery of assistance under the medicaid program. (Public Institutions, Health and Human Services)
548, am 1196-1198, psd 1237, H nonconc 1450
- HB 1220-FN-LOCAL**, changing the method for calculating stumpage values for purposes of assessing the yield tax on timber. (Ways and Means)
548, psd 1086, 1089, enr 1236 (Chapter 76)
- HB 1222-FN-LOCAL**, authorizing schools to modify authorized regional enrollment area (AREA) agreements. (Education)
552, am 1105-1106, psd 1167, H conc 1316, enr 1697 (Chapter 134)
- HB 1226-FN**, to protect the department of transportation against liability in the construction and maintenance of highways and highway bridges. (Judiciary)
875, am 1358-1360, psd 1447, H conc 1684, enr 1890 (Chapter 188)

- HB 1227-A**, decreasing the bonding authorized relative to the Manchester access ramp project. (Capital Budget)
New title: decreasing the bonding authorized relative to the Manchester access ramp project and repealing a provision relating to improvements on Gosling Road.
555, psd 1170-1171, 1238, enr am 1704, enr 1890 (Chapter 189)
- HB 1228-FN-LOCAL**, allowing a city, town or village district to grant waivers from the requirement of connection to the public sewer systems for properties with adequate alternative sewage disposal systems. (Environment)
New title: allowing a city, town or village district to grant waivers from the requirement of connection to the public sewer systems for properties with adequate alternative sewage disposal systems, and authorizing the town of Durham to borrow for the purpose of making improvements to wastewater treatment facilities.
549, am 1016-1020, psd 1053, H conc 1061, enr 1059 (Chapter 17)
- HB 1237**, revising statutory references to the New Hampshire Charitable Fund. (Judiciary)
73, psd 902-903, 908, enr 1012 (Chapter 24)
- HB 1238-FN**, authorizing the reconstruction of the Route I-89 exits 18 and 20 interchanges in Lebanon. (Capital Budget)
555, psd 1328, 1447, enr 1891 (Chapter 190)
- HB 1240**, establishing a committee to study criteria and propose legislation concerning the secession of a portion of a municipality. (Public Affairs)
549, am 931, psd 1013, H conc 1061, enr 1165 (Chapter 77)
- HB 1242**, establishing a study committee on certain current use issues. (Environment)
279, am 912-913, psd 916, H conc 1092, enr 1446 (Chapter 105)
- HB 1243**, revising the Patients' Bill of Rights. (Public Institutions, Health and Human Services)
73, psd 1055-1056, 1059, enr 1165 (Chapter 78)
- HB 1251**, relative to the observance of Memorial Day by school districts. (Public Affairs)
553, psd 1084-1085, 1089, enr 1165 (Chapter 79)
- HB 1252-FN**, creating exceptions from and reciprocity for state water laboratory certification, clarifying the use of fees for certifying state water laboratories, and changing the special account into a special continuously appropriated revolving fund account. (Environment)
555, psd 1328-1329, 1448, enr 1908 (Chapter 191)
- HB 1254**, relative to public employee labor relations board hearings. (Insurance)
870, rcmt 1187, Finance 1258-1259, psd 1363, 1448, enr 1891 (Chapter 192)
- HB 1255-FN**, relative to the number of big bingo games charitable organizations may conduct and increasing the one game date prize total value from \$3,500 to \$14,000. (Ways and Means)
New title: requiring the director of the sweepstakes commission to study the current operation of bingo games and sale of lucky 7 tickets.
279, LT 1548-1550, am 1629-1632, psd 1680, H nonconc, conf 1690-1691, rep adop 1788-1790, 1956, enr am 1963, enr 1984 (Chapter 271)
- HB 1256-FN-A**, requiring the department of transportation to study the United States Route 3 and New Hampshire Route 11 transportation corridor. (Transportation)
549, am 1041-1043, psd 1053, H nonconc, conf 1056-1057, rep adop 1790, 1956, enr 1985 (Chapter 231)
- HB 1261-FN-A**, requiring the department of transportation to conduct a study relative to the construction of certain portions of U.S. Route 3. (Transportation)
549, psd 1043, 1053, enr 1062 (Chapter 36)
- HB 1262**, relative to the rulemaking authority of the bank commissioner. (Banks)
555, K 879-880
- HB 1265-FN**, regulating small motor mineral dredging and panning. (Environment)
870, psd 913, 916, enr 1062 (Chapter 37)

- HB 1268**, relative to inspection and permit fees set by local legislative bodies. (Public Affairs)
549, am 1388-1389, psd 1448, H conc 1701, enr 1703 (Chapter 172)
- HB 1269-FN**, separating the AFDC standard of need from the AFDC payment standards and increasing the AFDC standard of need. (Public Institutions, Health and Human Services)
870, psd 1198-1203, 1238, enr 1658 (Chapter 111)
- HB 1278-FN-LOCAL**, permitting towns to make bylaws for refuse disposal in specifically-designated bags and altering district court procedure for levying fines against bylaws violators. (Environment)
549, am 1479-1480, psd 1680, H nonconc, conf 1674, rep adop 1790-1791, 1956, enr 1985 (Chapter 232)
- HB 1282-FN**, relative to the transfer of registration between owned and leased vehicles. (Transportation)
549, psd 905, 908, enr 1012 (Chapter 25)
- HB 1283-FN**, authorizing the human rights commission to award compensatory damages, levy administrative fines and award attorney's fees. (Judiciary)
New title: authorizing the human rights commission to award compensatory damages, levy administrative fines and award attorney's fees, and clarifying the jurisdiction of courts reviewing orders of the commission.
549, am 1075-1077, psd 1090, H conc 1451, enr 1891 (Chapter 193)
- HB 1286-FN**, allowing antique motor vehicles other than antique motorcycles to be registered at a prorated rate. (Transportation)
549, psd 1043, 1053, enr 1088 (Chapter 53)
- HB 1287-LOCAL**, enabling certain municipalities to issue tax lien redemption notes and relative to the transfer of tax liens. (Public Affairs)
553, am 1265-1269, psd 1312, H nonconc, conf 1452, rep adop 1791-1792, 1957, enr 1908 (Chapter 173)
- HB 1293**, reducing the penalty for adultery from a misdemeanor to a violation. (Judiciary)
555, K 1360
- HB 1295** prohibiting discrimination in insurance policies against elected or appointed officials. (Insurance)
First new title: relative to rate modification for individual accident and health insurance policies.
Second new title: relative to rate modifications for individual accident and health insurance policies and relative to approval of certain motor vehicle warranty agreements and surety bonds.
553, am 1135-1138, psd 1167, H nonconc, conf 1643-1644, rep adop 1792-1793, 1957, enr am 1963-1964, enr 1984 (Chapter 272)
- HB 1296**, removing a prohibition on certain card games and permitting commercial motor vehicle race track facilities to make certain beverage sales. (Ways and Means)
New title: relative to beverage and liquor licenses for motor vehicle racetracks and removing a prohibition on certain card games.
553, am 1232-1235, psd 1238, H conc 1451, enr 1699 (Chapter 153)
- HB 1297**, establishing a committee to study the issue of protecting personal information. (Judiciary)
549, K 920
- HB 1298**, allowing any municipal fire or police department, or independent emergency service, to record incoming and outgoing central dispatch and emergency telephone calls. (Executive Departments)
555, am 1252-1258, psd 1312, H conc 1451, enr 1703 (Chapter 174)
- HB 1305**, permitting the carrying and selling of antique gun canes. (Wildlife and Recreation)
First new title: permitting the carrying and selling of antique gun and sword canes.
Second new title: permitting the carrying and selling of antique gun and sword canes and prescribing penalties for the criminal use of pistol canes and sword canes.
549, am 905-906, psd 908, H nonconc, conf 1057, rep adop 1793-1794, 1957, enr am 1966, enr 1988 (Chapter 273)

- HB 1308**, relative to technical changes to the municipal charter laws. (Public Affairs)
New title: relative to technical changes to the municipal charter laws and relative to establishment of a charter commission in the town of Salem.
 549, LT 1085, am 1403-1406, psd 1448, H conc 1701, enr 1717 (Chapter 194)
- HB 1314**, establishing a committee to study the need for a public corporation to finance and operate environmental projects for the benefit of the state and making changes in certain water laws. (Environment)
 875, am 1480-1488, psd 1680, H nonconc, conf 1685-1686 (H K)
- HB 1315-LOCAL**, amending RSA 154 relative to firewards and firefighters, exempting fire investigators from having law enforcement backgrounds, extending the committee studying fire laws, and extending the state historic flag committee and making an appropriation to such committee. (Executive Departments)
 279, am 1022-1023, psd 1053, H conc 1316, enr 1698 (Chapter 154)
- HB 1316-FN**, relative to hearings before the board of nursing. (Executive Departments)
 549, psd 901, 908, enr 1012 (Chapter 26)
- HB 1318-FN**, repealing a provision of the business corporations act concerning application for reinstatement of charters and relative to the annual reports of beverage vendors and beverage vendor importers. (Executive Departments)
New title: repealing a provision of the business corporations act concerning application for reinstatement of charters, relative to the annual reports of beverage vendors and beverage vendor importers, and reinstating the charter of Rosetta Stone Associates, Inc.
 72, am 1023-1026, psd 1053, H conc 1316, enr 1697 (Chapter 135)
- HB 1320**, extending the time for recording a foreclosure deed and affidavit after a foreclosure sale when such recording is prevented by order or stay of any court or law or the United States Bankruptcy Code. (Judiciary)
 549, com changed 558, psd 880, 908, enr 1013 (Chapter 27)
- HB 1323-LOCAL**, forming a study committee to develop a survey to be used by the department of education to collect and compile information regarding major school construction projects. (Education)
 555, am 900-901, psd 908, H conc 1061, enr 1165 (Chapter 95)
- HB 1326**, requiring that service of process at a defendant's abode comply with court rules. (Judiciary)
 553, K 1360
- HB 1327-FN**, prohibiting the state or any of its political subdivisions from requiring public assistance applicants to cross picket lines to apply for jobs. (Public Affairs)
 550, psd 1085-1086, 1090, enr 1236 (Chapter 80)
- HB 1328-FN**, relative to the fiscal responsibilities of the county commissioners and the county convention for capital expenditures in Rockingham county. (Public Affairs)
 73, am 469-471, psd 545, H conc 709, enr 907 (Chapter 14)
- HB 1329-FN-LOCAL**, specifying the time for the municipal treasurer to make payments of annual budget funds to the village district. (Public Affairs)
New title: relative to payments of annual budget funds to village districts and relative to the Sugar Hill annual town budget.
 553, LT 1270-1271, am 1620-1624, psd 1680, H nonconc, conf 1689, rep adop 1794, 1957, enr 1986 (Chapter 274)
- HB 1330**, prohibiting certain credit card practices involving providers of travel services. (Banks)
 553, am 1098-1101, psd 1167, H nonconc, conf 1452-1453, rep adop 1794-1796, 1957, enr 1985 (Chapter 233)
- HB 1332**, removing the prohibition on use or possession of tobacco products by minors. (Public Institutions, Health and Human Services)
 550, am 1544-1547, psd 1680, H nonconc, conf 1690, rep adop (K) 1796, 1957
- HB 1339**, requiring the division of human services to report certain obligors to consumer reporting agencies. (Public Institutions, Health and Human Services)
 279, am 1151-1152, psd 1167, H conc 1316, enr 1682 (Chapter 119)

- HB 1341-FN-LOCAL**, clarifying the terms “subsequent tax” and “registered” and “certified” mail for purposes of certain property tax laws. (Public Affairs)
550, psd 1030-1031, 1054, enr 1088 (Chapter 54)
- HB 1342-A**, relative to the location and establishment of a state veterans’ cemetery and making an appropriation therefor. (Executive Departments)
871, psd 1258, 1312, enr 1697 (Chapter 136)
- HB 1343-FN**, establishing a committee to review wetlands projects and related issues. (Environment)
279, K 1329
- HB 1344-LOCAL**, requiring the house environment and agriculture and the senate environment committees to review the laws relative to solid waste management. (Environment)
New title: requiring the house environmental and agriculture and the senate environment committees to review the laws relative to solid waste management and authorizing a municipality to issue bonds to pay the cost of the cleanup of superfund hazardous waste sites.
555, am 1241-1245, recon & am 1310-1311, psd 1313, H nonconc, conf 1686, rep rej, new conf 1796-1797, 1877, rep adop 1893, 1899-1900, enr 1984 (Chapter 275)
- HB 1345**, allowing off-sale beer and wine licensees to advertise by signs and posters. (Ways and Means)
New title: allowing off-sale licensees to advertise by signs and posters.
553, am & LT 1045-1047, psd 1417, 1448, H conc 1701, enr 1891 (Chapter 195)
- HB 1347-A**, designating money for the planning and design of a regional vocational education center in Milford. (Education)
555, Capital Budget 1106-1108, psd 1455, 1680, enr 1698 (Chapter 155)
- HB 1350**, revising the laws that require a prescription to purchase a hypodermic needle. (Public Institutions, Health and Human Services)
550, psd (RC) 1203-1211, 1238, enr 1682, H sustained veto 1772
- HB 1351**, creating a committee to review the laws governing tax-exempt property and to study the concept of and criteria for payment in lieu of taxes by tax exempt properties in response to HBI 2 of the 1991 session. (Public Affairs)
550, am 1031, psd 1054, H conc 1061, enr 1165 (Chapter 81)
- HB 1353**, relative to civil recovery of damages for shoplifting. (Judiciary)
555, am 1077-1079, psd 1090, H conc 1316, enr 1659 (Chapter 106)
- HB 1357**, establishing a committee to study the concept of in-home care as an alternative to institutionalized care. (Public Institutions, Health and Human Services)
First new title: establishing a committee to study the concept of in-home care as an alternative to institutionalized care and allowing residential care facilities to be participating institutions under the law relative to the New Hampshire higher educational and health facilities authority.
Second new title: establishing a committee to study the concept of in-home care as an alternative to institutionalized care, allowing residential care facilities to be participating institutions under the law relative to the New Hampshire higher educational and health facilities authority, and adding home health care providers to the facilities covered under the laws relative to the higher education building corporation.
550, am 1275-1277, psd 1313, H nonconc, conf 1686-1687, rep adop 1797-1800, 1957, enr am 1965, enr 1984 (Chapter 276)
- HB 1359**, relative to the confidentiality of police personnel files in criminal cases. (Judiciary)
550, psd 920, 1014, enr 1058 (Chapter 45)
- HB 1361**, establishing a committee to study state motor vehicle fleet management. (Capital Budget)
553, am 1171-1172, psd 1238, H conc 1321, enr 1682 (Chapter 120)
- HB 1366-FN**, relative to adopting the state operating budget in the second year of the legislative session. (Finance)
871, K (RC) 1556-1560

HB 1370, to provide rotating 4-year county commissioner terms in Rockingham county. (Public Affairs)
74, psd 387, 413, enr 557 (Chapter 9)

HB 1372-FN, placing restrictions on the sale and disposal of manganese, zinc carbon, oxide and nickel-cadmium batteries. (Environment)
555, am 1488, psd 1680, H conc 1700, enr 1955 (Chapter 196)

HB 1374, establishing a task force on women at risk for alcohol and other drug abuse during pregnancy. (Public Institutions, Health and Human Services)
553, am 1152-1154, psd 1167, H nonconc, conf 1317, rep adop 1800-1801, 1957, enr 1986 (Chapter 234)

HB 1376-FN-LOCAL, requiring the department of environmental services to assume 20 percent of eligible costs of the Conway sewer system project and making an appropriation for costs payments. (Capital Budget)
New title: relative to water pollution, including requiring the department of environmental services to assume 20 percent of eligible costs of the North Conway Water Precinct sewer system project, making an appropriation for cost payments, relative to aid for water pollution control for regional waste treatment facilities for Winnepesaukee river basin, establishing a grant program for water pollution, and relative to future funding of certain classified positions within the department of environmental services.
869, am 1455-1471, psd 1681, H nonconc, conf 1687, rep adop 1801-1803, 1957, enr am 1966, enr 1988 (Chapter 277)

HB 1382, requiring all sellers of property to fully disclose information relative to private water supplies and septic and sewage disposal systems. (Environment)
First new title: requiring all sellers of property to fully disclose information relative to private water supplies and septic and sewage disposal systems, relative to drainage pools, and exempting homeowners associations from certain registration requirements.
Second new title: requiring all sellers of property to fully disclose information relative to private water supplies and septic and sewage disposal systems, relative to drainage pools, exempting homeowners associations from certain registration requirements, and exempting small motor mineral dredging permits from certain requirements.
550, am & LT 1488-1493, am 1527-1529, psd 1681, H nonconc, conf 1696, rep adop 1805-1806, 1957, enr am 1969, enr 1988 (Chapter 278)

HB 1386-FN-A, establishing a foundation aid formula study committee, authorizing the committee to hire a consultant to study different methods of financing education and making an appropriation therefor. (Education)
871, Finance 1239-1240, psd 1560-1561, 1681, enr 1699 (Chapter 156)

HB 1388, imposing a civil penalty in any proceeding in which a rule of a manufactured housing park owner is deemed unreasonable. (Public Affairs)
New title: authorizing a civil penalty to be imposed in any proceeding in which a rule of a manufactured housing park owner is deemed unreasonable.
553, am 1389-1391, psd 1448, H conc 1638, enr 1891 (Chapter 197)

HB 1390-FN, providing a 5 percent cost of living adjustment for teacher members of the retirement system and providing a 10 percent cost of living adjustment for teachers retired prior to July 1, 1957. (Insurance)
556, psd 1138, 1167, enr 1682 (Chapter 121)

HB 1394-FN-A, making supplemental appropriations to the department of justice and the department of health and human services. (Finance)
871, K 1363

HB 1395-FN-A, relative to soil conservation districts and making a supplemental appropriation therefor. (Finance)
550, K 1363

HB 1396-FN, authorizing municipalities to incur debt in the form of bonds guaranteed by the state of New Hampshire to assist municipalities, towns, cities, counties or districts to close landfills and to clean up hazardous waste sites. (Environment)
New title: authorizing municipalities to incur debt in the form of bonds guaranteed by the state of New Hampshire to assist municipalities, towns, cities, counties or districts to close landfills and to clean up certain hazardous waste sites.

550, LT 1329, am 1626-1629, psd 1681, H nonconc, conf 1691-1692, rep rej, new conf 1807-1809, 1877, rep adop 1893, 1896-1899, enr am 1966, enr 1988 (Chapter 279)

HB 1399-FN, changing the name of the board of examiners of psychologists to the board of examiners of psychology and mental health practice, expanding such board, and certifying mental health counselors. (Executive Departments)
556, am 1340-1346, psd 1448, H nonconc, conf 1643, rep adop 1809-1812, H rej rep, new conf 1893-1894, rep adop 1904-1905, 1957, enr 1984 (Chapter 280)

HB 1400-FN, relative to the comprehensive shoreland protection act. (Environment)
550, am 1509-1524, recon & psd 1648-1649, 1681, H nonconc, conf 1694-1695, rep adop 1812-1815, 1957, enr 1986 (Chapter 235)

HB 1401, requiring the mandates task force to study the impact of the development of the prison facility in the city of Laconia. (Economic Development)
556, psd 1472-1473, 1681, enr am 1964, enr 1984 (Chapter 281)

HB 1402-FN, relative to competitive bidding purchases of services from nonprofit organizations by certain state agencies for severely disabled or emotionally disturbed children. (Finance)
869, psd 1363-1364, 1448, enr 1891 (Chapter 198)

HB 1405, relative to appeal of tax assessments to the board of tax and land appeals and the superior court. (Public Affairs)
73, psd 1391, 1448, enr 1703 (Chapter 175)

HB 1407, repealing laws relative to abortion. (Judiciary)
556, psd (RC) 1140-1151, 1167, enr 1235 (H sustained veto)

HB 1408-FN-LOCAL, relative to technical changes in the unemployment compensation law and increasing the amount of taxable wages. (Insurance)
279, am 1138-1140, psd 1167, H nonconc, conf 1687-1688 (H K)

HB 1414-FN-A, relative to the medicaid plan to enhance the funding of services for children and families and making an appropriation therefor. (Public Institutions, Health and Human Services)
556, Finance 1034, psd 1364, 1448, enr 1703 (Chapter 176)

HB 1426, authorizing water users registered and reporting their use to the division of water resources to continue such use for the 1992-93 biennium. (Environment)
279, psd 913-914, 916, enr 1013 (Chapter 28)

HB 1429, relative to accounting for land use change tax funds. (Public Affairs)
550, psd 1188, 1238, enr 1682 (Chapter 122)

HB 1430, relative to the disclosure of certain information and refunds relating to musical performances. (Public Affairs)
New title: relative to the disclosure of certain information relating to musical performances.
73, am 1271-1273, psd 1313, H nonconc, conf 1647, rep adop 1815, 1957, enr 1986 (Chapter 236)

HB 1434, requiring employers advertising for replacement workers during a strike to state such in any advertisement. (Public Affairs)
550, psd (RC) 1391-1395, 1448, enr 1891 (Chapter 199)

HB 1436, relative to septic setbacks and terrain alteration permits. (Environment)
550, am 1329-1331, psd 1448, H conc 1701, enr 1699 (Chapter 157)

HB 1439, instituting a motor vehicle emissions inspection program and requiring a study of diesel and other vehicles. (Environment)
556, am 1524-1527, psd 1681, H nonconc, conf 1674-1675, 1701, rep adop 1815-1816, 1958, enr 1986 (Chapter 237)

HB 1440-FN-LOCAL, relative to preparation of master jury lists by the department of safety from drivers' licenses lists. (Judiciary)
551, psd 920-922, 1014, enr 1058 (Chapter 38)

- HB 1442-LOCAL**, relative to a census of school age children. (Education)
73, psd 909-910, 916, enr 1012 (Chapter 29)
- HB 1447-FN**, increasing witness fees for law enforcement officers. (Finance)
871, psd 1364-1367, 1448, enr 1699 (Chapter 158)
- HB 1448**, relative to the loyalty oath for teachers. (Education)
553, am (RC) 1108-1110, psd 1167, H conc 1316, enr 1697 (Chapter 137)
- HB 1449-FN**, relative to the cost of publishing school laws. (Education)
279, psd 1110, 1167, enr 1683 (Chapter 123)
- HB 1451-FN**, relative to the transportation of pupils living within a certain distance from the school to which they are assigned. (Education)
551, rcmt 1111-1112, psd 1240, 1313, enr 1699 (Chapter 159)
- HB 1452-FN-LOCAL**, allowing the county treasurer to use call bonds and lines of credit as financial management tools. (Banks)
551, am 1325-1327, psd 1448, H nonconc 1700
- HB 1453-FN**, establishing a study committee to review existing shellfish waters monitoring and closure procedures. (Wildlife and Recreation)
556, am (RC) 1302-1310, psd 1313, recon notice 1315, recon & am 1624-1626, psd 1681, H conc 1679, enr 1891 (Chapter 200)
- HB 1455-FN**, relative to motor vehicle laws, including suspension of wholesale motor vehicle dealer's registration, hanging disability placards, and other technical changes. (Transportation)
New title: relative to motor vehicle laws, including suspension of wholesale motor vehicle dealer's registration, hanging disability placards, other technical changes and relative to nonresident automobile insurance.
551, rcmt 1043-1045, am & LT 1279-1286, 1419-1423, am 1567-1571, psd 1681, H nonconc, conf 1689-1690, rep adop 1816-1819, 1958, enr 1984 (Chapter 282)
- HB 1462-FN**, establishing a committee to examine all aspects of parole eligibility. (Judiciary)
556, psd 1360, 1448, enr 1717 (Chapter 201)
- HB 1465-LOCAL**, relative to the taxation and transfer of restricted land. (Public Affairs)
551, psd 1188, 1238, enr 1697 (Chapter 138)
- HB 1466-FN**, modifying the advisory council on unemployment compensation. (Insurance)
279, LT 1259-1260, am 1429-1432, psd 1448, H nonconc, conf 1695 (H K)
- HB 1468-FN-LOCAL**, relative to special education catastrophic aid. (Education)
870, am & Finance 1173-1178, am 1561-1565, psd 1681, H nonconc, conf 1692, rep adop 1819-1822, 1958, enr 1986 (Chapter 238)
- HB 1471-FN**, changing the penalties for theft of timber from another person's land or for altering the mark of any mill log belonging to another person. (Judiciary)
551, am 1079-1080, psd 1090, H conc 1316, enr 1717 (Chapter 202)
- HB 1473-FN**, establishing a New Hampshire scenic and cultural byways system. (Transportation)
870, am 1286-1288, psd 1313, H conc 1701, enr 1699 (Chapter 160)
- HB 1474-FN-A**, relative to taxability of real estate transfers. (Ways and Means)
551, LT 1158, psd 1577, 1681, enr 1891 (Chapter 203)
- HB 1478-FN-LOCAL**, restructuring the Pease development authority. (Economic Development)
553, rules suspended & am 1650-1655, psd 1681, H nonconc, conf 1697-1698, rep adop 1822-1824, H rej rep 1958
- HB 1480-FN**, requiring persons who default on court appearances for motor vehicle offenses to pay witness fees for law enforcement officers. (Transportation)
551, psd 904, 908, enr 1058 (Chapter 39)

- HB 1485**, relative to children and family services, requiring the division for children and youth services to use reasonable efforts to preserve families while providing services designed to protect children. (Public Institutions, Health and Human Services)
556, K 931-939
- HB 1491-FN-LOCAL**, requiring professional fundraisers for police, law enforcement and firefighters' associations to register with and be regulated by the department of justice, increasing the amount of the registration fee, solicitation fee and bond, and making technical amendments to the registration law. (Judiciary)
553, am 1550-1552, psd 1681, H nonconc, conf 1692-1693, rep adop 1824-1825, 1958, enr 1986 (Chapter 239)
- HB 1492-A**, eliminating the capital appropriation for the demolition of the Walker building. (Capital Budget)
551, psd 1172-1173, 1238, enr 1446 (Chapter 107)
- HB 1493-A**, relative to extending the east-west highway study deadline. (Capital Budget)
New title: increasing the appropriation to the east-west highway study and extending the study deadline.
871, am 1471-1472, psd 1681, H nonconc, conf 1688, rep adop 1825-1826, 1958, enr 1986 (Chapter 283)
- HB 1494-FN-LOCAL**, implementing the recommendations of the New Hampshire supreme court long-range planning task force regarding the judicial branch. (Judiciary)
556, am 1503-1509, psd 1681, H conc 1696, enr am 1962-1963, enr 1984 (Chapter 284)
- HB 1495-FN**, establishing a committee to study the management of New Hampshire tidal waters and related issues. (Environment)
279, am 1493-1495, psd 1682, H nonconc, conf 1688-1689, rep adop 1826-1828, 1958, enr 1986 (Chapter 240)
- HB 1496-FN-LOCAL**, relative to the funding methodology of the retirement system. (Insurance)
556, K 1348
- HB 1498-FN**, relative to drug forfeiture. (Judiciary)
556, LT 1360-1361, 1424-1429, psd (RC) 1632-1638, 1682, enr 1703, H sustained veto 1988
- HB 1499-FN**, relative to inter-track wagering and the conduct of simulcast racing. (Ways and Means)
556, psd 939-940, 1014, enr 1052 (Chapter 16)
- HB 1501-LOCAL**, relative to unfunded state mandates. (Executive Departments)
871, am 1346-1348, psd 1449, H conc 1701, enr 1699 (Chapter 161)
- HB 1503**, relative to voting in certain wards in the city of Concord.
rules suspended, intro & psd 1999-2001, enr 2002 (Chapter 290)

HOUSE CONCURRENT RESOLUTIONS

- HCR 20**, urging the federal government to establish a post office in the town of Lee. (Public Affairs)
556, adop 1395-1396, 1449
- HCR 21**, urging the U.S. Congress to adopt uniform recycling product labeling standards based on standards developed by the Northeast Recycling Council. (Environment)
551, adop 1245-1246, 1313
- HCR 24**, urging the President to establish a commission to review access to current health care systems and to adopt unified access to health care in this country and urging Congress to enact recommendations of the commission. (Public Institutions, Health and Human Services)
553-554, adop 1211-1214, 1238
- HCR 25**, encouraging the operators of cable television systems to utilize a portion of their capacity to deliver commercial-free educational programming. (Public Affairs)
279, adop 903-904, 909

HCR 26, urging the New Hampshire legislature and the New Hampshire Congressional delegation to discourage certain Air Force testing of F-16 fighter aircraft in New Hampshire airspace. (Internal Affairs)

New title: urging the New Hampshire legislature and the New Hampshire Congressional delegation to discourage certain Air National Guard testing of F-16 fighter aircraft in New Hampshire airspace.

557, am 1027-1030, adop 1054, H conc 1061

HCR 28, urging the federal government to restore full funding for prescription drugs for veterans with service-related disabilities. (Public Institutions, Health and Human Services)

557, LT 1154-1158, adop (RC) 1411-1416, 1449

HCR 30, relative to the small-issue industrial development bond program. (Economic Development)

871, adop 1055, 1060

CONSTITUTIONAL AMENDMENT

CONCURRENT RESOLUTIONS

1991 CACRs RE-REFERRED TO COMMITTEE

CACR 6, relating to taxation of business income and revenue. providing that taxes of any type may be imposed on the income or revenue of business. (Ways and Means)

74, K (2 RCs) 1547-1548

1992 CACRs

CACR 29, relating to the governor's veto power. providing that the governor shall have line item reduction and line item veto power of items in any bill making appropriations of money. (Humphrey - To Internal Affairs)

21, LT 340-342, K (RC) 401-410

CACR 30, relating to election of federal and state representatives. providing that the terms of office for the members of the United States Congress from New Hampshire and for the members of the New Hampshire house and senate shall be limited to 12 years and 10 years, respectively. (Humphrey - To Public Affairs)

New title: relating to election of federal and state representatives. providing that the terms of office for the members of the United States Congress from New Hampshire and for the members of the New Hampshire house and senate shall be limited to 12 years.

21, am & LT (RC) 456-468, K 1954

CACR 31, relating to state spending. providing that the total amount of state expenditures shall be limited total general fund expenditures. (Humphrey - To Internal Affairs)

21, LT (RC) 342-346, K 1954

CACR 32, relating to biennial legislative sessions. providing that the general court shall meet biennially. (Humphrey - To Internal Affairs)

22, K (RC) 346-359

TABLE OF REFERENCES

FROM CHAPTER OF 1992 LAWS

TO BILL NUMBER

Chapter	Bill	Chapter	Bill	Chapter	Bill
1	HB 1000	51	HB 1119	101	HB 1153
2	SB 16	52	HB 1122	102	HB 1154
3	SB 27	53	HB 1286	103	HB 1196
4	SB 60	54	HB 1341	104	HB 1201
5	SB 120	55	SB 303	105	HB 1242
6	HB 1053	56	SB 313	106	HB 1353
7	SB 193	57	SB 367	107	HB 1492
8	SB 372	58	SB 386	108	SB 381
9	HB 1370	59	SB 388	109	SB 383
10	SB 172	60	SB 430	110	SB 426
11	SB 220	61	HB 545	111	HB 1269
12	HB 1100	62	HB 569	112	HB 317
13	HB 1148	63	HB 562	113	HB 470
14	HB 1328	64	HB 564	114	HB 632
15	SB 300	65	HB 714	115	HB 1111
16	HB 1499	66	HB 726	116	HB 1141
17	HB 1228	67	HB 1108	117	HB 1142
18	HB 338	68	HB 1110	118	HB 1172
19	HB 410	69	HB 1144	119	HB 1339
20	HB 1121	70	HB 1173	120	HB 1361
21	HB 1204	71	HB 1187	121	HB 1390
22	HB 1210	72	HB 1192	122	HB 1429
23	HB 1216	73	HB 1209	123	HB 1449
24	HB 1237	74	HB 1213	124	SB 340
25	HB 1282	75	HB 1217	125	SB 377
26	HB 1316	76	HB 1220	126	SB 414
27	HB 1320	77	HB 1240	127	SB 429
28	HB 1426	78	HB 1243	128	SB 467
29	HB 1442	79	HB 1251	129	SB 474
30	HB 503	80	HB 1327	130	HB 591
31	HB 534	81	HB 1351	131	HB 1139
32	HB 783	82	SB 323	132	HB 1166
33	HB 1152	83	SB 326	133	HB 1191
34	HB 1163	84	SB 331	134	HB 1222
35	HB 1207	85	SB 342	135	HB 1318
36	HB 1261	86	SB 359	136	HB 1342
37	HB 1265	87	SB 360	137	HB 1448
38	HB 1440	88	SB 368	138	HB 1465
39	HB 1480	89	SB 380	139	SB 311
40	SB 307	90	SB 387	140	SB 316
41	SB 356	91	SB 391	141	SB 371
42	SB 361	92	SB 398	142	HB 504
43	SB 394	93	SB 404	143	HB 526
44	SB 421	94	SB 432	144	HB 1113
45	HB 1359	95	HB 1323	145	HB 1114
46	HB 1054	96	HB 1202	146	HB 1115
47	HB 285	97	HB 326	147	HB 1116
48	HB 585	98	HB 1135	148	HB 1140
49	HB 1107	99	HB 1137	149	HB 1178
50	HB 1118	100	HB 1151	150	HB 1185

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151	HB 1186	201	HB 1462	251	SB 410
152	HB 1190	202	HB 1471	252	SB 437
153	HB 1296	203	HB 1474	253	SB 452
154	HB 1315	204	SB 306	254	SB 472
155	HB 1347	205	SB 327	255	SB 308
156	HB 1386	206	SB 334	256	HB 1025
157	HB 1436	207	SB 335	257	HB 675
158	HB 1447	208	SB 346	258	HB 689
159	HB 1451	209	SB 348	259	HB 497
160	HB 1473	210	SB 355	260	SB 393
161	HB 1501	211	SB 363	261	SB 428
162	SB 350	212	SB 392	262	SB 450
163	SB 405	213	SB 427	263	HB 264
164	SB 425	214	SB 433	264	HB 527
165	SB 441	215	SB 436	265	HB 601
166	SB 462	216	SB 443	266	HB 646
167	SB 471	217	SB 446	267	HB 740
168	SB 382	218	SB 453	268	HB 758
169	HB 1126	219	SJR 1	269	HB 1128
170	HB 1159	220	HB 61	270	HB 1182
171	HB 1183	221	HB 321	271	HB 1255
172	HB 1268	222	HB 411	272	HB 1295
173	HB 1287	223	HB 677	273	HB 1305
174	HB 1298	224	HB 778	274	HB 1329
175	HB 1405	225	HB 1052	275	HB 1344
176	HB 1414	226	HB 1101	276	HB 1357
177	SB 385	227	HB 1117	277	HB 1376
178	HB 263	228	HB 1123	278	HB 1382
179	HB 446	229	HB 1136	279	HB 1396
180	HB 469	230	HB 1138	280	HB 1399
181	HB 505	231	HB 1256	281	HB 1401
182	HB 693	232	HB 1278	282	HB 1455
183	HB 1005	233	HB 1330	283	HB 1493
184	HB 1124	234	HB 1374	284	HB 1494
185	HB 1130	235	HB 1400	285	SB 314
186	HB 1161	236	HB 1430	286	SB 319
187	HB 1164	237	HB 1439	287	SB 321
188	HB 1226	238	HB 1468	288	SB 339
189	HB 1227	239	HB 1491	289	HB 1026
190	HB 1238	240	HB 1495	290	HB 1503
191	HB 1252	241	SB 62		
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194	HB 1308	244	SB 343		
195	HB 1345	245	SB 362		
196	HB 1372	246	SB 370		
197	HB 1388	247	SB 375		
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